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CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 300

Introduced by Committee on Education

(Coauthors: Assembly Members Goldberg (Chair), Plescia (Vice Chair), Cohn, Garcia, Hancock, Liu, Mullin, Pavley, Reyes, and Wyland)

February 6, 2003

An act to amend Sections 8206, 8206.1, 8206.6, 8242, 8263, 8805, 11021, 35160.5, 35256, 39831.5, 41344, 41402, 41403, 41975, 44505, 45037, 46201, 46202, 48209.16, 48916, ~~48918, 48980, 52055.600, 52055.640, 56001, 56028, 56032, 56043, 56170, 56320, 56341.5, 56343.5, 56345.1, 56361, 56366, 56390, 56391, 56500.3, 56504.5, 56505, 56506, 56605, 56836.01, 56836.155, 56863, 60040, and 60119~~ of, to amend and renumber Section ~~48918, 48980, 52055.600, 52055.640, 56000, 56001, 56028, 56032, 56040, 56043, 56170, 56195.7, 56205, 56301, 56320, 56321, 56329, 56341.5, 56343.5, 56344, 56345, 56345.1, 56346, 56361, 56365, 56366, 56381, 56390, 56391, 56500.3, 56500.4, 56502, 56504.5, 56505, 56506, 56605, 56836.01, 56836.155, 56863, 60040, 60119, and 60640~~ of, to amend and renumber Section 56364.2 of, to add Sections 56440.5 and 56500.6 to, to add Chapter 5.1 (commencing with Section 56515) to Part 30 of,

and to repeal Sections 8206.3, 8206.5, 8206.7, 8206.8, 8207, 11023, 17912.1, 32211, 41404, 41406, 41407, 45357, 45358, 48209.17, 51132, 51882, 56364, 56364.5, 62002, 62007, and 62008 of, the Education Code, to amend ~~Section 19050.8~~ *Sections 19050.8 and 54963* of the Government Code, and to amend Section 45 of Chapter 1167 of the Statutes of 2002, relating to education, and declaring the urgency thereof, to take immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 300, as amended, Committee on Education. Education.

(1) Existing law authorizes the Department of Education, upon request, to waive its regulations for staffing and group size ratios for programs in which subsidized children comprise a majority of the enrollment.

This bill would instead authorize the Superintendent of Public Instruction, upon request, to waive the requirements for staffing and group size ratios without regard to program enrollment.

(2) Existing law requires families to meet certain requirements to be eligible for subsidized child development services. One of the alternative eligibility requirements is that the parents are incapacitated, including having a medical or psychiatric special need that cannot be met without the provision of child day care.

This bill would delete that requirement and replace it with a requirement that the child is identified as having a medical or psychiatric special need that cannot be met without the provision of child day care.

(3) Existing law establishes the Healthy Start Support Services for Children Grant Program, requires participating local educational agencies and consortia to submit annually an evaluation report to the Superintendent of Public Instruction, requires the Superintendent of Public Instruction to cause an evaluation to be conducted by an independent organization of the effectiveness of the grant program, requires that independent evaluation to be submitted by June 1, 1994, to the Governor, the Secretary for Education, the Secretary of the Health and Welfare Agency, and the Legislature, and authorizes independent evaluations to be conducted subject to additional funding being made available for that purpose in subsequent fiscal years.



This bill would delete the provisions regarding the required independent evaluation and subsequent contingently authorized independent evaluations.

(4) Existing law requires the Trustees of the California State Summer School for the Arts to set a tuition fee of up to \$1,000 for the 1989 school year and authorizes the board to increase this fee by 5% every year thereafter.

This bill would delete the authorization for a 5% fee increase and would instead allow the board to set a tuition fee that corresponds with actual program costs.

(5) Existing law establishes the Academic Improvement and Achievement Act which authorizes local educational agencies to submit proposals to the Superintendent of Public Instruction to fund activities that will increase the percentage of pupils at qualifying high schools who meet the requirements for admission to the California State University and the University of California. Existing law provides that funding is contingent on an appropriation in the annual Budget Act and conditions renewal of funding on data regarding progress and improvement regarding various college readiness indicators. Existing law requires the superintendent to recommend, and the State Board of Education to approve, a plan for the comprehensive evaluation of the program by July 1, 2003, and would require the State Board of Education to report to the Legislature regarding the program by December 31, 2003.

This bill would delete the conditions for renewal of funding and the requirement regarding the comprehensive evaluation of the program.

(6) Existing law, the Classroom Instructional Improvement and Accountability Act, an initiative measure, requires the governing board of a school district to compare the content of the school district's school accountability report card to the model school accountability report card adopted by the State Board of Education. The initiative measure provides that it may be amended by the Legislature, only to further its purposes, by a bill that is passed with a $\frac{2}{3}$ vote of both houses of the Legislature and signed by the Governor.

This bill would delete the requirement that a school district compare its report card with the state model.

(7) Existing law requires the Superintendent of Public Instruction and Director of Finance to jointly establish a plan for repayment of school funds that a local educational agency received on the basis of



average daily attendance that did not comply with statutory of regulatory requirements that were conditions of apportionments.

This bill would, commencing with the 1999–2000 fiscal year, prohibit the manner of reducing the amount disallowed for repayment purposes from resulting in a local educational agency repaying more than the value of the average daily attendance disallowed, plus interest and other penalties or reductions in apportionments as provided by existing law.

(8) Existing law sets forth the maximum allowable ratio of administrative employees to teachers in the various types of school districts and requires the Superintendent of Public Instruction to determine the ratio of administrative employees to teachers in each school district. Existing law requires the Superintendent of Public Instruction to determine the reduction in state support resulting from excessive administrative employees. Existing law subjects school districts to annual audits regarding the ratio of administrative employees to teachers.

This bill would instead require a school district to determine that ratio and would set forth the manner of determining whether a school district is in compliance with the maximum allowable ratio. The bill would delete the provisions requiring the Superintendent of Public Instruction to determine the reduction in state support resulting from excessive administrative employees and subjecting school districts to annual audits regarding the ratio of administrative employees to teachers and would make conforming changes.

(9) Existing law prohibits apportionments and allowances to a school district from Section A of the State School Fund in a fiscal year to be less than \$120 per unit of average daily attendance or \$2,400, whichever is less.

This bill would instead prohibit those apportionments and allowances from being less than \$120 per unit of average daily attendance or \$2,400, whichever is greater.

(10) Existing law requires a county office of education to be assessed a penalty if it draws an order for a warrant in favor of a person for a period of service during which the person did not have a valid certification document.

This bill would instead require the assessment of that penalty if the county office of education releases a warrant in the circumstances described above.



(11) Existing law requires the Superintendent of Public Instruction to reduce a districts apportionment, as specified if the governing board of a school district offers less instructional time than the amount of instructional time fixed for the 1982–83 fiscal year.

This bill would, instead, make the reduction apply only to school districts that do not participate in the program that offers incentives for a longer instructional day and year.

(12) Existing law authorizes the governing board of a school district to accept interdistrict transfers under a policy that ensures that pupils are selected for admission through a random, unbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based on the pupil's academic or athletic performance. This authorization is inoperative on July 1, 2003, and is repealed on January 1, 2004.

This bill would, instead, make the authorization inoperative on July 1, 2008, and repeal it on January 1, 2009.

(13) Existing law requires the governing board of a school district to set a date when a pupil who is expelled for certain acts is required to be reviewed for readmission. Existing law requires the date set to be not later than the last day of the semester following the semester in which the expulsion occurred.

This bill would, for an expulsion ordered during summer session or the intercession period of a year-round program, require the review date to be set not later than the last day of the semester following the summer session or intercession period during which the expulsion was ordered.

(14) Existing law establishes the Teresa P. Hughes Family-School Partnership Award and Grant Program to provide grants and awards to school districts, as specified.

This bill would delete the provision providing grants under this program.

(15) Existing law establishes the High Priority Schools Grant Program for Low Performing Schools and requires the Superintendent of Public Instruction to allocate, from funds made available for purposes of the program, \$400 per pupil to eligible schools for implementation of a school action plan.

This bill would require the allocation to an eligible school to be not less than \$50,000 and would allow a school that received funding in the 2002–03 fiscal year to carry over funds until the 2003–04 fiscal year.

(16) Existing law requires a statement of the transition service needs of a pupil to be included in the pupil's individualized education program beginning at age 14.

This bill would also require this statement beginning at an age younger than 14 if determined by the individualized education program team pursuant to federal regulations.

(17) Existing law requires a school district, special education local plan area, or county office of education to conduct meetings to develop, review, and revise the individualized education program of an individual with exceptional needs. Existing law authorizes a school district, special education local plan area, or county office of education to inform parents or guardians of the right to bring to these meetings other people who have knowledge or special expertise regarding the individual with exceptional needs.

This bill would require a school district, special education local plan area, or county office of education to inform parents and guardians of the right described above, thereby imposing a state-mandated local program.

(18) Existing law requires a school district, special education local plan area, or county office of education to hold a meeting of an individualized education program team within 30 days, not counting days in July and August, when a parent requests a meeting to review an individualized education program.

This bill would instead not count the days between the pupil's regular school sessions, terms, or days of school vacation in excess of 5 schooldays, thereby imposing a state-mandated local program.

(19) Existing law authorizes school districts, special education local plan areas, and county offices of education to enter into master contracts regarding the provision of special education and related services with nonpublic, nonsectarian schools and agencies and authorizes a party to the proposed contract to appeal to the county superintendent of schools or the Superintendent of Public Instruction, as applicable, if after 60 days the master contract or related individual services agreements are not finalized. Existing law requires the county superintendent of school of the Superintendent of Public Instruction, or his or her designee, to mediate the formulation of a contract within 30 days of the appeal and provides that the mediation is binding on both parties.

This bill would instead require the county superintendent of ~~school~~ *schools* or the Superintendent of Public Instruction, or his or her



designee, to render a decision on the appeal which would be the final administrative decision on the matter within those 30 days.

(20) Existing law authorizes the award of a certificate or document of educational achievement or completion to an individual with exceptional needs who meets certain requirements and makes the recipient of this certificate or document eligible to participate in any graduation ceremony or school activity related to graduation in which a pupil of similar age without disabilities would be eligible to participate.

This bill would impose a state-mandated local program by requiring the award of this certificate or document and requiring a school district to permit the recipient to participate in the graduation ceremony and related school activities.

(21) Existing law establishes the Pupil Textbook and Instructional Materials Incentive Program and requires the governing board to hold a public hearing on prescribed matters in order to be eligible to receive program funds. Existing law requires the governing board to provide 10 days' notice of the public hearing, requires the notice to contain the time, place and purpose of the hearing, and requires the notice to be posted in 3 public places in the school district.

This bill would instead require the governing board to provide notice of the hearing in a manner in which it customarily provides similar notices and information to the public.

(22) Existing law appropriates \$313,908,000 from the General Fund for purposes of the School Improvement Program, with \$54,181,000 for purposes of making allowances for grades 7 to 12, inclusive. From the \$54,181,000, the State Department of Education is required to allocate \$34.72 per unit of average daily attendance (ADA) generated by pupils enrolled in grades 7 and 8 to school districts that received School Improvement Grants in the 1989–90 fiscal year at a rate of \$30 per unit of ADA generated by pupils enrolled in grades 7 and 8.

This bill would change the \$34.72 rate per unit of ADA to \$34.67 and would allocate \$123.18 per unit of ADA generated by pupils enrolled in grades 7 and 8 to school districts that received School Improvement Grants in the 1989–90 fiscal year at a rate of \$106.93 per unit of ADA generated by pupils enrolled in grades 7 and 8.

(23) *Existing law, the Ralph M. Brown Act, requires the meetings of the legislative body of a local agency to be conducted openly and publicly, with specified exceptions. Existing law exempts from this requirement closed sessions by a legislative body of a local agency held*

to discuss specified issues, including the renewal of a license for a rehabilitated criminal, real property transactions, and pending litigation, and prohibits persons attending those closed meetings from disclosing any information acquired during the meeting.

This bill would additionally prohibit a person from disclosing confidential information that has been acquired by being present in a closed session held by a school district or county office of education to discuss the suspension of, or disciplinary action, excluding expulsion, in connection with any public school pupil, to review the contents of an approved or adopted assessment; or to discuss a negotiation between the public school employer and recognized or certified employee organization.

(24) This bill would make other technical and nonsubstantive changes to the Education Code, repeal obsolete and duplicative provisions, and make changes in provisions governing child care and special education to conform to federal regulations.

~~(24)~~

(25) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that no reimbursement is required by specified provisions of this act for a specified reason.

However, the bill would also provide that, if the Commission on State Mandates determines that the bill contains other costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~(25)~~

(26) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8206 of the Education Code is amended
2 to read:



1 8206. (a) The State Department of Education is hereby
2 designated as the single state agency responsible for the
3 promotion, development, and provision of care of children in the
4 absence of their parents during the workday or while engaged in
5 other activities which require assistance of a third party or parties.
6 The department shall administer the federal Child Care and
7 Development Fund.

8 (b) For purposes of this section, “Child Care and Development
9 Fund” has the same meaning as in Section 98.2 of Title 45 of the
10 Code of Federal Regulations.

11 SEC. 2. Section 8206.1 of the Education Code is amended to
12 read:

13 8206.1. (a) The Superintendent of Public Instruction shall
14 collaborate with the Secretary for Education and the Secretary of
15 Health and Human Services, with the advice and assistance of the
16 Child Development Programs Advisory Committee, in the
17 development of the state plan required pursuant to the federal
18 Child Care and Development Fund, prior to submitting or
19 reporting on that plan to the federal Secretary of Health and
20 Human Services.

21 (b) (1) For purposes of this section, “Child Care and
22 Development Fund” has the same meaning as in Section 98.2 of
23 Title 45 of the Code of Federal Regulations.

24 (2) For the purposes of this section, “collaborate” means to
25 cooperate with and to consult with.

26 SEC. 3. Section 8206.3 of the Education Code is repealed.

27 SEC. 4. Section 8206.5 of the Education Code is repealed.

28 SEC. 5. Section 8206.6 of the Education Code is amended to
29 read:

30 8206.6. It is the intent of the Legislature that federal funds
31 received pursuant to the federal Child Care and Development Fund
32 be allocated according to federal regulations. For purposes of this
33 section, “Child Care and Development Fund” has the same
34 meaning as in Section 98.2 of Title 45 of the Code of Federal
35 Regulations.

36 SEC. 6. Section 8206.7 of the Education Code is repealed.

37 SEC. 7. Section 8206.8 of the Education Code is repealed.

38 SEC. 8. Section 8207 of the Education Code is repealed.

39 SEC. 9. Section 8242 of the Education Code is amended to
40 read:

1 8242. If there are no facilities in the area able to meet the
2 special needs of particular children, the Superintendent of Public
3 Instruction may, upon request, waive the requirements for staffing
4 and group size ratios established pursuant to Section 8288.

5 SEC. 10. Section 8263 of the Education Code is amended to
6 read:

7 8263. (a) The Superintendent of Public Instruction shall
8 adopt rules and regulations on eligibility, enrollment, and priority
9 of services needed to implement this chapter. In order to be eligible
10 for federal and state subsidized child development services,
11 families shall meet at least one requirement in each of the
12 following areas:

13 (1) A family is (A) a current aid recipient, (B) income eligible,
14 (C) homeless, or (D) one whose children are recipients of
15 protective services, or whose children have been identified as
16 being abused, neglected, or exploited, or at risk of being abused,
17 neglected, or exploited.

18 (2) A family needs the child care service (A) because the child
19 is identified by a legal, medical, social service agency, or
20 emergency shelter as (i) a recipient of protective services, (ii)
21 being neglected, abused, or exploited, or at risk of neglect, abuse,
22 or exploitation, or (iii) having a medical or psychiatric special need
23 that cannot be met without provision of child day care or (B)
24 because the parents are (i) engaged in vocational training leading
25 directly to a recognized trade, paraprofession, or profession, (ii)
26 employed or seeking employment, (iii) seeking permanent
27 housing for family stability, or (iv) incapacitated.

28 (b) Except as provided in Article 15.5 (commencing with
29 Section 8350), priority for state and federally subsidized child
30 development services is as follows:

31 (1) First priority shall be given to neglected or abused children
32 who are recipients of child protective services, or recipients who
33 are at risk of being neglected or abused, upon written referral from
34 a legal, medical, or social service agency. If an agency is unable
35 to enroll a child in the first priority category, the agency shall refer
36 the family to local resource and referral services to locate services
37 for the child.

38 (2) Second priority shall be equally given to eligible families,
39 regardless of the number of parents in the home, who are income
40 eligible. Within this priority, families with the lowest gross

1 monthly income in relation to family size, as determined by a
2 schedule adopted by the superintendent, shall be admitted first.
3 When two or more families are in the same priority in relation to
4 income, the family that has been on the waiting list for the longest
5 time shall be admitted first. For purposes of determining order of
6 admission, the grants of public assistance recipients shall be
7 counted as income.

8 (3) The superintendent shall set criteria for and may grant
9 specific waivers of the priorities established in this subdivision for
10 agencies that wish to serve specific populations, including
11 children with exceptional needs or children of prisoners. These
12 new waivers may not include proposals to avoid appropriate fee
13 schedules or admit ineligible families, but may include proposals
14 to accept members of special populations in other than strict
15 income order, as long as appropriate fees are paid.

16 (c) Notwithstanding any other law, in order to promote
17 continuity of services, a family enrolled in a state or federally
18 funded child care and development program whose services would
19 otherwise be terminated because the family no longer meets the
20 program income, eligibility, or need criteria may continue to
21 receive child development services in another state or federally
22 funded child care and development program if the contractor is
23 able to transfer the family's enrollment to another program for
24 which the family is eligible prior to the date of termination of
25 services or to exchange the family's existing enrollment with the
26 enrollment of a family in another program, provided that both
27 families satisfy the eligibility requirements for the program in
28 which they are being enrolled. The transfer of enrollment may be
29 to another program within the same administrative agency or to
30 another agency that administers state or federally funded child care
31 and development programs within that county.

32 (d) A physical examination and evaluation, including
33 age-appropriate immunization, shall be required prior to, or within
34 six weeks of, enrollment. No standard, rule, or regulation shall
35 require medical examination or immunization for admission to a
36 child care and development program of a child whose parent or
37 guardian files a letter with the governing board of the child care
38 and development program stating that the medical examination or
39 immunization is contrary to his or her religious beliefs, or provide
40 for the exclusion of a child from the program because of a parent

1 or guardian having filed the letter. However, whenever there is
2 good cause to believe that a child is suffering from a recognized
3 contagious or infectious disease, the child shall be temporarily
4 excluded from the program until the governing board of the child
5 care and development program is satisfied that any contagious or
6 infectious disease does not exist.

7 (e) Regulations formulated and promulgated pursuant to this
8 section shall include the recommendations of the State
9 Department of Health Services relative to health care screening
10 and the provision of health care services. The superintendent shall
11 seek the advice and assistance of these health authorities in
12 situations where service under this chapter includes or requires
13 care of ill children or children with exceptional needs.

14 (f) The superintendent shall establish a fee schedule for
15 families utilizing child care and development services pursuant to
16 this chapter. The income of a recipient of federal supplemental
17 security income benefits pursuant to Title XVI of the Federal
18 Social Security Act (42 U.S.C. Sec. 1381 et seq.) and state
19 supplemental program benefits pursuant to Title XVI of the
20 Federal Social Security Act and Chapter 3 (commencing with
21 Section 12000) of Part 3 of Division 9 of the Welfare and
22 Institutions Code may not be included as income for the purposes
23 of determining the amount of the family fee. The fee schedule shall
24 include, but not be limited to, the following restrictions:

25 (1) No fees shall be assessed for families whose children are
26 enrolled in the state preschool program.

27 (2) A contractor or provider may require parents to provide
28 diapers. A contractor or provider offering field trips either may
29 include the cost of the field trips within the service rate charged to
30 the parent or may charge parents an additional fee. Federal or state
31 money may not be used to reimburse parents for the costs of field
32 trips if those costs are charged as an additional fee. A contractor
33 or provider that charges parents an additional fee for field trips
34 shall inform parents, prior to enrolling the child, that a fee may be
35 charged and that no reimbursement will be available. A contractor
36 or provider may charge parents for field trips or require parents to
37 provide diapers only under the following circumstances:

38 (A) The provider has a written policy that is adopted by the
39 agency's governing board that includes parents in the
40 decisionmaking process regarding both of the following:

1 (i) Whether or not, and how much, to charge for field trip
2 expenses.

3 (ii) Whether or not to require parents to provide diapers.

4 (B) The maximum total of charges per child in a contract year
5 does not exceed twenty-five dollars (\$25).

6 (C) No child is denied participation in a field trip due to the
7 parent's inability or refusal to pay the charge. Adverse action may
8 not be taken against any parent for that inability or refusal.

9 Each contractor or provider shall establish a payment system
10 that prevents the identification of children based on whether or not
11 their parents have paid a field trip charge.

12 Expenses incurred and income received for field trips pursuant
13 to this section shall be reported to the State Department of
14 Education. The income received for field trips shall be reported
15 specifically as restricted income.

16 (g) The superintendent shall establish guidelines for the
17 collection of employer-sponsored child care benefit payments
18 from any parent whose child receives subsidized child care and
19 development services. These guidelines shall provide for the
20 collection of the full amount of the benefit payment, but not to
21 exceed the actual cost of child care and development services
22 provided, notwithstanding the applicable fee based on the fee
23 schedule.

24 (h) The superintendent shall establish guidelines according to
25 which the director or a duly authorized representative of the child
26 care and development program will certify children as eligible for
27 state reimbursement pursuant to this section.

28 (i) Public funds may not be paid directly or indirectly to any
29 agency that does not pay at least the minimum wage to each of its
30 employees.

31 SEC. 11. Section 8805 of the Education Code is amended to
32 read:

33 8805. The Legislature finds that an evaluation of plan
34 effectiveness is both desirable and necessary, and accordingly
35 requires the following:

36 (a) No later than January 1 of the year following a full year of
37 operation, each local educational agency or consortium that
38 receives an operational grant under this chapter shall submit a
39 report to the superintendent that includes:

1 (1) An assessment of the effectiveness of that local educational
2 agency or consortium in achieving stated goals in the planning
3 and/or operational phase.

4 (2) Problems encountered in the design and operation of the
5 Healthy Start Support Services for Children Grant Program plan,
6 including identification of any federal, state, or local statute or
7 regulation that will impede program implementation.

8 (3) Recommendations for ways to improve delivery of support
9 services to pupils.

10 (4) The number of pupils who will receive support services
11 who previously have not been served.

12 (5) The potential impact of the program on the local
13 educational agency or the consortium, including any anticipated
14 increase in school retention and achievement rates of pupils who
15 receive support services.

16 (6) An accounting of anticipated local budget savings, if any,
17 resulting from the implementation of the program.

18 (7) Client and practitioner satisfaction.

19 (8) The ability, or anticipated ability, to continue to provide
20 services in the absence of future funding under this chapter, by
21 allocating resources in ways that are different from existing
22 methods.

23 (9) Increased access to services for pupils and their families.

24 (10) The degree of increased collaboration among
25 participating agencies and private partners.

26 (11) If the local educational agency or consortium received
27 certification as a Medi-Cal provider, the extent to which the
28 certification improved access to needed services.

29 (b) Additional annual evaluations may be required as
30 designated by the superintendent.

31 SEC. 12. Section 11021 of the Education Code is amended to
32 read:

33 11021. (a) Pursuant to the criteria approved by the State
34 Board of Education, the Superintendent of Public Instruction shall
35 develop an application inviting local educational agencies to apply
36 to receive funds for qualifying schools, subject to an appropriation
37 of funds for purposes of this section.

38 (b) Funds shall be distributed and dispersed equitably
39 throughout the state in a manner consistent with the purposes of
40 this chapter and that ensures that qualifying schools located in

1 rural, urban, and suburban areas have access to these
2 programmatic funds.

3 (c) Priority in the allocation of funding to qualifying schools
4 shall be based upon a combination of the following factors that
5 shall be given equal consideration:

6 (1) The qualifying school's relative low ranking in comparison
7 to the statewide average percentage of high school graduates who
8 complete the A–F or college preparatory course requirements for
9 admission to the California State University and the University of
10 California with a “C” grade or better.

11 (2) The qualifying school's relative low ranking in comparison
12 to the statewide average percentage of high school pupils who take
13 the nationally normed, standardized tests used for college
14 admission decisions.

15 (3) The qualifying school's relative low ranking in comparison
16 to other schools maintaining the same grades in any of grades 9 to
17 12, inclusive, of the schoolwide average scores on nationally
18 normed, standardized tests used for college admission decisions.

19 (4) The qualifying school's relative low ranking in comparison
20 to other schools in its college participation rate.

21 (d) Funds allocated to qualifying schools pursuant to this
22 chapter shall be awarded annually by the Superintendent of Public
23 Instruction for a period of up to four years.

24 (e) Funds allocated pursuant to this section may not exceed one
25 hundred dollars (\$100) per pupil at a qualifying school in any
26 single fiscal year. A qualifying school with less than 200 pupils
27 may request funding of up to twenty thousand dollars (\$20,000).

28 (f) Funds appropriated pursuant to this chapter may
29 supplement, but may not supplant, any existing program or service
30 provided at a qualifying school that is consistent with this chapter.

31 (g) No more than 5 percent of the amount that is appropriated
32 to a local educational agency for expenditure at a qualifying school
33 pursuant to this chapter shall be used for administrative costs.

34 (h) Grant recipients shall ensure that parents or guardians of all
35 8th grade pupils are notified of the course requirements that are a
36 prerequisite for admission to the California State University and
37 the University of California.

38 SEC. 13. Section 11023 of the Education Code is repealed.

39 SEC. 14. Section 17912.1 of the Education Code is repealed.

40 SEC. 15. Section 32211 of the Education Code is repealed.

1 SEC. 16. Section 35160.5 of the Education Code is amended
2 to read:

3 35160.5. (a) The governing board of each school district that
4 maintains one or more schools containing any of grades 7 to 12,
5 inclusive, shall, as a condition for the receipt of an inflation
6 adjustment pursuant to Section 42238.1, establish a school district
7 policy regarding participation in extracurricular and cocurricular
8 activities by pupils in grades 7 to 12, inclusive. The criteria, which
9 shall be applied to extracurricular and cocurricular activities, shall
10 ensure that pupil participation is conditioned upon satisfactory
11 educational progress in the previous grading period.

12 (1) For purposes of this subdivision, “extracurricular activity”
13 means a program that has all of the following characteristics:

14 (A) The program is supervised or financed by the school
15 district.

16 (B) Pupils participating in the program represent the school
17 district.

18 (C) Pupils exercise some degree of freedom in either the
19 selection, planning, or control of the program.

20 (D) The program includes both preparation for performance
21 and performance before an audience or spectators.

22 (2) For purposes of this subdivision, an “extracurricular
23 activity” is not part of the regular school curriculum, is not graded,
24 does not offer credit, and does not take place during classroom
25 time.

26 (3) For purposes of this subdivision, a “cocurricular activity”
27 is defined as a program that may be associated with the curriculum
28 in a regular classroom.

29 (4) Any teacher graded or required program or activity for a
30 course that satisfies the entrance requirements for admission to the
31 California State University or the University of California is not
32 an extracurricular or cocurricular activity as defined by this
33 section.

34 (5) For purposes of this subdivision, “satisfactory educational
35 progress” shall include, but not be limited to, the following:

36 (A) Maintenance of minimum passing grades, which is defined
37 as at least a 2.0 grade point average in all enrolled courses on a 4.0
38 scale.



1 (B) Maintenance of minimum progress toward meeting the
2 high school graduation requirements prescribed by the governing
3 board.

4 (6) For purposes of this subdivision, “previous grading
5 period” does not include any grading period in which the pupil
6 was not in attendance for all, or a majority of, the grading period
7 due to absences excused by the school for reasons such as serious
8 illness or injury, approved travel, or work. In that event, “previous
9 grading period” is deemed to mean the grading period
10 immediately prior to the grading period or periods excluded
11 pursuant to this paragraph.

12 (7) A program that has, as its primary goal, the improvement
13 of academic or educational achievements of pupils is not an
14 extracurricular or cocurricular activity as defined by this section.

15 (8) The governing board of each school district may adopt, as
16 part of its policy established pursuant to this subdivision,
17 provisions that would allow a pupil who does not achieve
18 satisfactory educational progress, as defined in paragraph (4), in
19 the previous grading period to remain eligible to participate in
20 extracurricular and cocurricular activities during a probationary
21 period. The probationary period shall not exceed one semester in
22 length, but may be for a shorter period of time, as determined by
23 the governing board of the school district. A pupil who does not
24 achieve satisfactory educational progress, as defined in paragraph
25 (4), during the probationary period shall not be allowed to
26 participate in extracurricular and cocurricular activities in the
27 subsequent grading period.

28 (9) Nothing in this subdivision shall preclude the governing
29 board of a school district from imposing a more stringent academic
30 standard than that imposed by this subdivision. If the governing
31 board of a school district imposes a more stringent academic
32 standard, the governing board shall establish the criteria for
33 participation in extracurricular and cocurricular activities at a
34 meeting open to the public pursuant to Section 35145.

35 The governing board of each school district shall annually
36 review the school district policies adopted pursuant to the
37 requirements of this section.

38 (b) (1) On or before July 1, 1994, the governing board of each
39 school district shall, as a condition for the receipt of school
40 apportionments from the state school fund, adopt rules and

1 regulations establishing a policy of open enrollment within the
2 district for residents of the district. This requirement does not
3 apply to any school district that has only one school or any school
4 district with schools that do not serve any of the same grade levels.

5 (2) The policy shall include all of the following elements:

6 (A) It shall provide that the parent or guardian of each
7 schoolage child who is a resident in the district may select the
8 schools the child shall attend, irrespective of the particular
9 locations of his or her residence within the district, except that
10 school districts shall retain the authority to maintain appropriate
11 racial and ethnic balances among their respective schools at the
12 school districts' discretion or as specified in applicable
13 court-ordered or voluntary desegregation plans.

14 (B) It shall include a selection policy for any school that
15 receives requests for admission in excess of the capacity of the
16 school that ensures that selection of pupils to enroll in the school
17 is made through a random, unbiased process that prohibits an
18 evaluation of whether any pupil should be enrolled based upon his
19 or her academic or athletic performance. For purposes of this
20 subdivision, the governing board of the school district shall
21 determine the capacity of the schools in its district. However,
22 school districts may employ existing entrance criteria for
23 specialized schools or programs if the criteria are uniformly
24 applied to all applicants. This subdivision shall not be construed
25 to prohibit school districts from using academic performance to
26 determine eligibility for, or placement in, programs for gifted and
27 talented pupils established pursuant to Chapter 8 (commencing
28 with Section 52200) of Part 28.

29 (C) It shall provide that no pupil who currently resides in the
30 attendance area of a school shall be displaced by pupils
31 transferring from outside the attendance area.

32 (3) Notwithstanding the requirement of subparagraph (B) of
33 paragraph (2) that the policy include a selection policy for any
34 school that receives requests for admission in excess of the
35 capacity of the school that ensures that the selection is made
36 through a random, unbiased process, the policy may include any
37 of the following elements:

38 (A) It may provide that special circumstances exist that might
39 be harmful or dangerous to a particular pupil in the current
40 attendance area of the pupil, including, but not limited to, threats

1 of bodily harm or threats to the emotional stability of the pupil, that
2 serve as a basis for granting a priority of attendance outside the
3 current attendance area of the pupil. A finding of harmful or
4 dangerous special circumstances shall be based upon either of the
5 following:

6 (i) A written statement from a representative of the appropriate
7 state or local agency, including, but not limited to, a law
8 enforcement official or a social worker, or properly licensed or
9 registered professionals, including, but not limited to,
10 psychiatrists, psychologists, or marriage and family therapists.

11 (ii) A court order, including a temporary restraining order and
12 injunction, issued by a judge.

13 A finding of harmful or dangerous special circumstances
14 pursuant to this subparagraph may be used by a school district to
15 approve transfers within the district to schools that have been
16 deemed by the school district to be at capacity and otherwise
17 closed to transfers that are not based on harmful or dangerous
18 special circumstances.

19 (B) It may provide that any pupil attending a school prior to
20 July 1, 1994, may be considered a current resident of that school
21 for purposes of this section until the pupil is promoted or graduates
22 from that school.

23 (C) It may provide that no pupil who was on a waiting list for
24 a school or specialized program, on or before July 1, 1994,
25 pursuant to a then-existing district policy on transfers within the
26 district, shall be displaced by pupils transferring after July 1, 1994,
27 from outside the attendance area, as long as the continued
28 maintenance on a waiting list remains consistent with the former
29 policy.

30 (D) It may provide that schools receiving requests for
31 admission shall give priority for attendance to siblings of pupils
32 already in attendance in that school and to pupils whose parent or
33 legal guardian is assigned to that school as his or her primary place
34 of employment.

35 (E) It may include a process by which the school district
36 informs parents or guardians that certain schools or grade levels
37 within a school are currently, or are likely to be, at capacity and,
38 therefore, those schools or grade levels are unable to accommodate
39 any new pupils under the open enrollment policy.

(4) It is the intent of the Legislature that, upon the request of the pupil's parent or guardian and demonstration of financial need, each school district provide transportation assistance to the pupil to the extent that the district otherwise provides transportation assistance to pupils.

SEC. 17. Section 35256 of the Education Code is amended to read:

35256. School Accountability Report Card

The governing board of each school district maintaining an elementary or secondary school shall by September 30, 1989, or the beginning of the school year develop and cause to be implemented for each school in the school district a School Accountability Report Card.

(a) The School Accountability Report Card shall include, but is not limited to, the conditions listed in Education Code Section 33126.

(b) The Governing Board of each school district shall annually issue a School Accountability Report Card for each school in the school district, publicize these reports, and notify parents or guardians of students that a copy will be provided upon request.

SEC. 18. Section 39831.5 of the Education Code is amended to read:

39831.5. (a) All pupils in prekindergarten, kindergarten, and grades 1 to 12, inclusive, in public or private school who are transported in a schoolbus or school pupil activity bus shall receive instruction in schoolbus emergency procedures and passenger safety. The county superintendent of schools, superintendent of the school district, or owner/operator of a private school, as applicable, shall ensure that the instruction is provided as follows:

(1) Upon registration, the parents or guardians of all pupils not previously transported in a schoolbus or school pupil activity bus and who are in prekindergarten, kindergarten, and grades 1 to 6, inclusive, shall be provided with written information on schoolbus safety. The information shall include, but not be limited to, all of the following:

- (A) A list of schoolbus stops near each pupil's home.
- (B) General rules of conduct at schoolbus loading zones.
- (C) Red light crossing instructions.
- (D) Schoolbus danger zone.
- (E) Walking to and from schoolbus stops.

1 (2) At least once in each school year, all pupils in
 2 prekindergarten, kindergarten, and grades 1 to 8, inclusive, who
 3 receive home-to-school transportation shall receive safety
 4 instruction that includes, but is not limited to, proper loading and
 5 unloading procedures, including escorting by the driver, how to
 6 safely cross the street, highway, or private road, instruction on the
 7 use of passenger restraint systems, as described in paragraph (3),
 8 proper passenger conduct, bus evacuation, and location of
 9 emergency equipment. Instruction also may include
 10 responsibilities of passengers seated next to an emergency exit. As
 11 part of the instruction, pupils shall evacuate the schoolbus through
 12 emergency exit doors.

13 (3) Instruction on the use of passenger restraint systems, when
 14 a passenger restraint system is installed, shall include, but not be
 15 limited to, all of the following:

16 (A) Proper fastening and release of the passenger restraint
 17 system.

18 (B) Acceptable placement of passenger restraint systems on
 19 pupils.

20 (C) Times at which the passenger restraint systems should be
 21 fastened and released.

22 (D) Acceptable placement of the passenger restraint systems
 23 when not in use.

24 (4) Prior to departure on a school activity trip, all pupils riding
 25 on a schoolbus or school pupil activity bus shall receive safety
 26 instruction that includes, but is not limited to, location of
 27 emergency exits, and location and use of emergency equipment.
 28 Instruction also may include responsibilities of passengers seated
 29 next to an emergency exit.

30 (b) The following information shall be documented each time
 31 the instruction required by paragraph (2) of subdivision (a) is
 32 given:

33 (1) Name of school district, county office of education, or
 34 private school.

35 (2) Name and location of school.

36 (3) Date of instruction.

37 (4) Names of supervising adults.

38 (5) Number of pupils participating.

39 (6) Grade levels of pupils.

40 (7) Subjects covered in instruction.

1 (8) Amount of time taken for instruction.

2 (9) Busdriver's name.

3 (10) Bus number.

4 (11) Additional remarks.

5 The information recorded pursuant to this subdivision shall
6 remain on file at the district or county office, or at the school, for
7 one year from the date of the instruction, and shall be subject to
8 inspection by the Department of the California Highway Patrol.

9 SEC. 19. Section 41344 of the Education Code is amended to
10 read:

11 41344. (a) If, as the result of an audit or review, a local
12 educational agency is required to repay an apportionment
13 significant audit exception, the Superintendent of Public
14 Instruction and the Director of Finance, or their designees, shall
15 jointly establish a plan for repayment of state school funds that the
16 local educational agency received on the basis of average daily
17 attendance, or other data, that did not comply with statutory or
18 regulatory requirements that were conditions of the
19 apportionments. A local educational agency must request a
20 repayment plan within 90 days of receiving the final audit report
21 or review, within 30 days of receiving a final determination
22 regarding an appeal pursuant to subdivision (d), or, in the absence
23 of an appeal pursuant to subdivision (d), within 30 days of
24 receiving a determination of a summary review pursuant to
25 subdivision (d) of Section 41344.1. At the time the local
26 educational agency is notified, the Controller shall also be notified
27 of the repayment plan. The repayment plan shall be established in
28 accordance with the following:

29 (1) The Controller shall withhold the disallowed amount at the
30 next principal apportionment or pursuant to paragraph (2), unless
31 subdivision (d) or subdivision (d) of Section 41344.1 applies, in
32 which case the disallowed amount shall be withheld, at the next
33 principal apportionment or pursuant to paragraph (2) following
34 the determination regarding the appeal or summary appeal. In
35 calculating the disallowed amount, the Controller shall determine
36 the total amount of overpayment received by the local educational
37 agency on the basis of average daily attendance, or other data,
38 reported by the local educational agency that did not comply with
39 one or more statutory or regulatory requirements that are
40 conditions of apportionment.

1 (2) If the Superintendent of Public Instruction and the Director
2 of the Department of Finance concur that repayment of the full
3 liability in the current fiscal year would constitute a severe
4 financial hardship for the local agency, they may approve a
5 repayment plan of equal annual payments over a period of up to
6 eight years. The repayment plan shall include interest on each
7 year's outstanding balance at the rate earned on the state's
8 short-term pooled investment fund during that year. The
9 Superintendent of Public Instruction and the Director of the
10 Department of Finance shall jointly establish this repayment plan.
11 The Controller shall withhold amounts pursuant to the repayment
12 plan.

13 (3) If the Superintendent of Public Instruction and the Director
14 of the Department of Finance do not jointly establish a repayment
15 plan, the State Controller shall withhold the entire disallowed
16 amount determined pursuant to paragraph (1) at the next principal
17 apportionment.

18 (b) (1) For purposes of computing average daily attendance
19 pursuant to Section 42238.5, a local educational agency's prior
20 fiscal year average daily attendance shall be reduced by an amount
21 equal to any average daily attendance disallowed in the current
22 year, by an audit or review, as defined in subdivision (e).

23 (2) Commencing with the 1999–2000 fiscal year, this
24 subdivision may not result in a local educational agency repaying
25 more than the value of the average daily attendance disallowed in
26 the audit exception plus interest and other penalties or reductions
27 in apportionments as provided by existing law.

28 (c) Notwithstanding any other provision of law, this section
29 may not be waived under any authority set forth in this code except
30 as provided in this section or Section 41344.1.

31 (d) Within 60 days of the date on which a local educational
32 agency receives a final audit report resulting from an audit or
33 review or within 30 days of receiving a determination of a
34 summary review pursuant to subdivision (d) Section 41344.1, a
35 local educational agency may appeal a finding contained in the
36 final report, pursuant to Section 41344.1. Within 90 days of the
37 date on which the appeal is received by the panel, a hearing shall
38 be held at which the local educational agency may present
39 evidence or arguments if the local educational agency believes that
40 the final report contains any finding that was based on errors of fact

1 or interpretation of law. A repayment schedule may not commence
2 until the panel reaches a determination regarding the appeal. If the
3 panel determines that the local educational agency is correct in its
4 assertion, in whole or in part, the allowable portion of any
5 apportionment payment that was withheld shall be paid at the next
6 principal apportionment.

7 (e) As used in this section, “audit or review” means an audit
8 conducted by the Controller’s office, an annual audit conducted by
9 a certified public accountant or a public accountant firm pursuant
10 to Section 41020, and an audit or review conducted by a
11 governmental agency that provided the local education agency
12 with an opportunity to provide a written response.

13 SEC. 20. Section 41402 of the Education Code is amended to
14 read:

15 41402. For the purposes of this article, the maximum ratios of
16 administrative employees to each 100 teachers in the various types
17 of school districts shall be as follows:

18 (a) In elementary school districts—9.

19 (b) In unified school districts—8.

20 (c) In high school districts—7.

21 This section does not apply to a school district which has only
22 one administrator.

23 SEC. 21. Section 41403 of the Education Code is amended to
24 read:

25 41403. (a) For purposes of determining compliance with
26 Section 41402, a school district shall determine, for each current
27 fiscal year, to two decimal points, the following:

28 (1) The total number of administrative employees, except those
29 serving in positions that are supported by categorical grants from
30 any source and are in programs that require specific
31 teacher/administrator ratios, or that are supported by federal
32 funds. As to those serving in positions that are not supported
33 completely by these categorical grants from any source or
34 completely by federal funds, the number of employees reported
35 shall include the full-time equivalent of all fractional time
36 attributable to that time not supported by categorical grants or
37 federal funds.

38 (2) The total number of teachers except those serving in
39 positions that are supported by federal funds or by categorical
40 grants from any source and are in programs that require specific

1 teacher/administrator ratios. As to those serving in positions that
2 are not supported completely by these categorical grants from any
3 source or completely by federal funds, the number of employees
4 reported shall include the full-time equivalent of all fractional time
5 attributable to that time not supported by categorical grants or
6 federal funds. Substitute teachers may be counted as teachers only
7 if the employee for whom they are substituting is not counted. In
8 no event shall the number of full-time equivalent teachers reported
9 be greater than the number of full-time equivalent teaching
10 positions in the district.

11 (3) The total maximum number of administrative employees
12 that should be employed by the district based upon the application
13 of the appropriate ratio prescribed by Section 41402 to the number
14 of teachers determined pursuant to paragraph (2).

15 (4) The difference between the number of administrative
16 employees should be employed by the district pursuant to
17 paragraph (3) and the total number of administrative employees
18 pursuant to paragraph (1).

19 (b) A district is in compliance with Section 41402 if the
20 difference determined pursuant to paragraph (4) of subdivision (a)
21 is negative, or less than a positive 0.50.

22 (c) The number of employees pursuant to paragraphs (1), (2),
23 (3), and (4) of subdivision (a) shall include the full-time equivalent
24 of all fractional time of those employees.

25 (d) For purposes of determining the compliance in the San
26 Diego City School District, the number of employees and the
27 full-time equivalent of all of the fractional time of employees
28 serving the district in positions mandated as the result of the
29 district's court-ordered integration plan is excluded from the
30 numbers identified pursuant to subdivision (a).

31 An individual may not be counted as more than one full-time
32 equivalent employee unless the individual is employed on a
33 part-time basis in adult education, driver education, or vocational
34 education, or any part-time or additional teaching assignment, in
35 addition to his or her regular full-time assignment.

36 SEC. 22. Section 41404 of the Education Code is repealed.

37 SEC. 23. Section 41406 of the Education Code is repealed.

38 SEC. 24. Section 41407 of the Education Code is repealed.

39 SEC. 25. Section 41975 of the Education Code is amended to
40 read:

1 41975. Apportionments and allowances to a school district
2 from Section A of the State School Fund in a fiscal year may not
3 be less than the product of one hundred twenty dollars (\$120)
4 multiplied by the average daily attendance of the district in the
5 preceding fiscal year, or two thousand four hundred dollars
6 (\$2,400), whichever is greater.

7 SEC. 26. Section 44505 of the Education Code is amended to
8 read:

9 44505. (a) Between July 1, 1999, and June 30, 2000, a school
10 district may notify the Superintendent of Public Instruction that it
11 plans to implement, commencing July 1, 2000, a Peer Assistance
12 and Review Program for Teachers pursuant to this article. Upon
13 receipt of the notification by the school district, the Superintendent
14 of Public Instruction shall apportion to the school district two
15 thousand eight hundred dollars (\$2,800) or an amount equal to the
16 number of mentor teachers that the state calculated the school
17 district is entitled to in the 1999–2000 fiscal year pursuant to
18 Article 4 (commencing with Section 44490) multiplied by two
19 thousand eight hundred dollars (\$2,800), whichever is greater.

20 (b) A school district that notifies the Superintendent of Public
21 Instruction that it plans to implement a Peer Assistance and
22 Review Program for Teachers by July 1, 2000, pursuant to
23 subdivision (a), shall certify to the Superintendent of Public
24 Instruction that it has implemented a program by August 1, 2000.
25 In addition to the certification, the Superintendent of Public
26 Instruction may request a copy of the signature page of the
27 collective bargaining agreement implementing the program
28 required pursuant to subdivision (a) of Section 44503. A school
29 district that fails to provide the required certification is not eligible
30 to receive an apportionment for the Peer Assistance and Review
31 Program for Teachers pursuant to subdivision (a) of this section or
32 subdivision (a) of Section 44498 in the 2000–01 school year, or in
33 any year thereafter. The school district, however, may be eligible
34 to receive an apportionment for the Peer Assistance and Review
35 Program for Teachers pursuant to subdivision (c) of this section
36 and subdivision (a) of Section 44498 in the 2000–01 school year,
37 and in each year thereafter, if the school district complies with the
38 requirements set forth in subdivisions (c) and (d).

39 (c) Between July 1, 2000, and May 31, 2001, a school district
40 may notify the Superintendent of Public Instruction that it plans to

1 implement, commencing July 1, 2001, a Peer Assistance and
2 Review Program for Teachers pursuant to this article. On or before
3 June 29, 2001, the Superintendent of Public Instruction shall
4 apportion to every school district that provides this notification an
5 amount equal to the number of mentor teachers that the state
6 calculated the school district is entitled to in the 1999–2000 school
7 year pursuant to Article 4 (commencing with Section 44490) times
8 a maximum of one thousand dollars (\$1,000). Any school district
9 that provides this notification shall receive at least the amount that
10 would be received pursuant to this section by a school district with
11 one state funded mentor in the 2000–01 school year pursuant to
12 Article 4 (commencing with Section 44490).

13 (d) A school district that notifies the Superintendent of Public
14 Instruction that it plans to implement a Peer Assistance and
15 Review Program for Teachers by July 1, 2001, pursuant to
16 subdivision (c), shall certify to the Superintendent of Public
17 Instruction that it has implemented a program by July 1, 2001. In
18 addition to the certification, the Superintendent of Public
19 Instruction may request a copy of the signature page of the
20 collective bargaining agreement implementing the program
21 required pursuant to subdivision (a) of Section 44503. A school
22 district that fails to provide the required certification is not eligible
23 for any apportionment for the Peer Assistance and Review
24 Program received pursuant to subdivision (c) of this section, and
25 subdivision (a) of Section 44498 in the 2001–02 school year, or in
26 any year thereafter.

27 (e) The funding provided pursuant to subdivisions (a) and (c)
28 of this section and subdivision (a) of Section 44498 shall be
29 provided to eligible school districts in each year that the school
30 operates a Peer Assistance and Review Program for Teachers.

31 (f) The maximum amount of funds available for apportionment
32 to school districts by the Superintendent of Public Instruction for
33 allocation pursuant to subdivision (c) shall be the amount
34 appropriated pursuant to subdivision (a) of Section 6 of the act
35 adding this section, minus any funds apportioned by the
36 Superintendent of Public Instruction to school districts pursuant to
37 subdivision (a) as of June 30, 2000.

38 (g) A school district may use funds apportioned pursuant to this
39 section for activities necessary to implement the Peer Assistance
40 and Review Program for Teachers.

1 SEC. 27. Section 45037 of the Education Code is amended to
2 read:

3 45037. (a) Except as provided in Section 45036, for the fiscal
4 year 2001–02 and for any fiscal year thereafter in which a person
5 renders service as a teacher in kindergarten or any of grades 1 to
6 12, inclusive, who does not have a valid certification document,
7 the school district or county office of education in which the
8 person is employed shall be assessed a penalty that shall be in lieu
9 of any loss of funding that would otherwise result under Chapter
10 6.10 (commencing with Section 52120) of Part 28. The penalty
11 shall be calculated as provided in subdivision (b) and withheld
12 from state funding otherwise due to the district or county office of
13 education.

14 (1) Notwithstanding Section 46300, the attendance of the
15 noncertificated person's pupils during the period of service shall
16 be included in the computation of average daily attendance.

17 (2) The noncertificated person's period of service shall not be
18 excluded from the determination of eligibility for incentive
19 funding for a longer instructional day or year, or both, pursuant to
20 Article 8 (commencing with Section 46200) of Chapter 2 of Part
21 26.

22 (b) (1) For each person who rendered service in the
23 employment of the district or county office of education as a
24 teacher in kindergarten or any of grades 1 to 12, inclusive, during
25 the fiscal year, add the total number of schooldays on which the
26 person rendered any amount of the service.

27 (2) For each person who rendered service in the employment
28 of the district or county office of education as a teacher in
29 kindergarten or any of grades 1 to 12, inclusive, during the fiscal
30 year, for a period of service during which the person did not have
31 a valid certification document, add the number of schooldays on
32 which the person rendered any amount of the service without a
33 valid certification document.

34 (3) Divide the number determined in paragraph (2) by the
35 number determined in paragraph (1) and carry the result to four
36 decimal places.

37 (4) Multiply a school district's revenue limit entitlement for the
38 fiscal year, calculated pursuant to Section 42238, or its funding
39 amount calculated pursuant to Article 4 (commencing with
40 Section 42280) of Chapter 7 of Part 24, as applicable, or a county

office of education's funding for the fiscal year, for the program in which the noncertificated person rendered service by the number determined in paragraph (3).

(c) Beginning in 2002–03, if a county office of education releases a warrant in favor of a person for whom a period of school district service is included in the calculation set forth in paragraph (2) of subdivision (b), the county office shall be assessed a penalty. The penalty assessed to a county office for any fiscal year in which one or more district teachers did not have a valid certification document shall be equal to the lesser of three amounts as follows:

(1) Fifty percent of all penalties assessed for that fiscal year to all school districts in the county office's jurisdiction pursuant to subdivision (b).

(2) One-half percent of the total expenditures for that fiscal year from unrestricted resources, as defined in the California School Accounting Manual, in the county office's county school service fund, when two or fewer districts in the county office's jurisdiction are subject penalties pursuant to subdivision (b).

(3) One percent of the total expenditures for that fiscal year from unrestricted resources, as defined in the California School Accounting Manual, in the county office's county school service fund, when three or more districts in the county office's jurisdiction are subject penalties pursuant to subdivision (b).

(d) Nothing in this section may be waived in whole or in any part.

SEC. 28. Section 45357 of the Education Code is repealed.

SEC. 29. Section 45358 of the Education Code is repealed.

SEC. 30. Section 46201 of the Education Code is amended to read:

46201. (a) In each of the 1984–85, 1985–86, and 1986–87 fiscal years, for each school district that certifies to the Superintendent of Public Instruction that it offers at least the amount of instructional time specified in this subdivision at a grade level or levels, the Superintendent of Public Instruction shall determine an amount equal to twenty dollars (\$20) per unit of current year second principal apportionment regular average daily attendance in kindergarten and grades 1 to 8, inclusive, and forty dollars (\$40) per unit of current year second principal apportionment regular average daily attendance in grades 9 to 12, inclusive. This section shall not apply to adult average daily

1 attendance, the average daily attendance for pupils attending
2 summer schools, alternative schools, regional occupational
3 centers and programs, continuation high schools, or opportunity
4 schools, and the attendance of pupils while participating in
5 community college or independent study programs.

6 (1) In the 1984–85 fiscal year, for kindergarten and each of
7 grades 1 to 12, inclusive, the sum of subparagraphs (A) and (B):

8 (A) The number of instructional minutes offered at that grade
9 level in the 1982–83 fiscal year.

10 (B) One-third of the difference between the number of minutes
11 specified for that grade level in paragraph (3) and the number of
12 instructional minutes offered at that grade level in the 1982–83
13 fiscal year.

14 (2) In the 1985–86 fiscal year, for kindergarten and each of
15 grades 1 to 12, inclusive, the sum of subparagraphs (A) and (B):

16 (A) The number of instructional minutes offered at that grade
17 level in the 1982–83 fiscal year.

18 (B) Two-thirds of the difference between the number of
19 minutes specified for that grade level in paragraph (3) and the
20 number of instructional minutes offered at that grade level in the
21 1982–83 fiscal year.

22 (3) In the 1986–87 fiscal year:

23 (A) Thirty-six thousand minutes in kindergarten.

24 (B) Fifty thousand four hundred minutes in grades 1 to 3,
25 inclusive.

26 (C) Fifty-four thousand minutes in grades 4 to 8, inclusive.

27 (D) Sixty-four thousand eight hundred minutes in grades 9 to
28 12, inclusive.

29 (4) In any fiscal year, each school district that receives an
30 apportionment pursuant to subdivision (a) for average daily
31 attendance in grades 9 to 12, inclusive, shall offer a program of
32 instruction that allows each student to receive at least 24 course
33 years of instruction, or the equivalent, during grades 9 to 12,
34 inclusive.

35 (5) For any schoolsite at which programs are operated in more
36 than one of the grade levels enumerated in subparagraph (B) or (C)
37 of paragraph (3), the school district may calculate a weighted
38 average of minutes for those grade levels at that schoolsite for
39 purposes of making the certification authorized by this
40 subdivision.

(b) (1) If any of the amounts of instructional time specified in paragraph (3) of subdivision (a) is a lesser number of minutes for that grade level than actually provided by the district in the same grade in the 1982–83 fiscal year, the 1982–83 fiscal year number of minutes for that grade level, adjusted to comply with Section 46111, shall instead be the requirement for the purposes of paragraphs (1), (2), and (3) of subdivision (a). Commencing with the 1990–91 fiscal year, and each fiscal year through the 1995–96 fiscal year, any school district subject to this subdivision that does not maintain the number of instructional minutes for a particular grade level that the school district maintained for the 1982–83 fiscal year, adjusted to comply with Section 46111, shall not be subject to paragraphs (1) to (3), inclusive, of subdivision (c) if that school district maintains at least the minimum number of instructional minutes for each grade level set forth in paragraph (3) of subdivision (a) in the 1990–91 fiscal year and each fiscal year through the 1994–95 fiscal year or the 1995–96 fiscal year for districts whose instructional minutes were adjusted to comply with Section 46111, and thereafter returns to the number of instructional minutes maintained for each grade level in the 1982–83 fiscal year.

(2) The Legislature finds and declares that the school districts to which paragraph (1) is applicable have not offered any less instructional time than is required of all other school districts and therefore should not be forced to pay any penalty.

(c) (1) For any school district that receives an apportionment pursuant to subdivision (a) in the 1984–85 fiscal year and that reduces the amount of instructional time offered below the minimum amounts specified in paragraph (1) of subdivision (a) in the 1985–86 fiscal year or any fiscal year thereafter, up to and including the 2000–01 fiscal year, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1985–86 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph (4) of subdivision (b) of Section 42238, as adjusted in the 1985–86 fiscal year and fiscal years thereafter.

(2) For each school district that receives an apportionment pursuant to subdivision (a) in the 1985–86 fiscal year and that reduces the amount of instructional time offered below the

1 minimum amounts specified in paragraph (2) of subdivision (a) in
2 the 1986–87 fiscal year or any fiscal year thereafter, up to and
3 including the 2000–01 fiscal year, the Superintendent of Public
4 Instruction shall reduce the base revenue limit per unit of average
5 daily attendance for the fiscal year in which the reduction occurs
6 by an amount attributable to the increase in the 1986–87 fiscal year
7 base revenue limit per unit of average daily attendance pursuant to
8 paragraph (4) of subdivision (b) of Section 42238, as adjusted in
9 the 1986–87 fiscal year and fiscal years thereafter.

10 (3) For each school district that receives an apportionment
11 pursuant to subdivision (a) in the 1986–87 fiscal year and that
12 reduces the amount of instructional time offered below the
13 minimum amounts specified in paragraph (3) of subdivision (a) in
14 the 1987–88 fiscal year or any fiscal year thereafter, up to and
15 including the 2000–01 fiscal year, the Superintendent of Public
16 Instruction shall reduce the base revenue limit per unit of average
17 daily attendance for the fiscal year in which the reduction occurs
18 by an amount attributable to the increase in the 1987–88 fiscal year
19 base revenue limit per unit of average daily attendance pursuant to
20 paragraph (4) of subdivision (b) of Section 42238, as adjusted in
21 the 1987–88 fiscal year and fiscal years thereafter.

22 (d) For each school district that receives an apportionment
23 pursuant to subdivision (a) in the 1986–87 fiscal year and that
24 reduces the amount of instructional time offered below the
25 minimum amounts specified in either paragraph (3) of subdivision
26 (a) or paragraph (1) of subdivision (b), whichever is applicable, in
27 the 2001–02 fiscal year, or any fiscal year thereafter, the
28 Superintendent of Public Instruction shall withhold from the
29 district’s revenue limit apportionment for the average daily
30 attendance of each affected grade level, the sum of that
31 apportionment multiplied by the percentage of the minimum
32 offered minutes at that grade level that the district failed to offer.

33 SEC. 31. Section 46202 of the Education Code is amended to
34 read:

35 46202. (a) Except as otherwise provided in this section, in
36 fiscal year 2000–01 and prior, if a school district that does not
37 participate in the program set forth in this article offers less
38 instructional time than the amount of instructional time fixed for
39 the 1982–83 fiscal year, the Superintendent of Public Instruction
40 shall, in that fiscal year, reduce that district’s apportionment by the

average percentage increase in the base revenue limit for districts of similar type and size multiplied by the district's units of average daily attendance.

(b) Except as otherwise provided in this section, in fiscal year 2001–02 and any fiscal year thereafter, if the governing board of a school district offers less instructional time than the amount of instructional time fixed for the 1982–83 fiscal year, the Superintendent of Public Instruction shall withhold for that fiscal year, from the district's revenue limit apportionment for the average daily attendance of each affected grade level, the sum of that apportionment multiplied by the percentage of instructional minutes fixed in the 1982–83 school year, at that grade level, that the district failed to offer.

(c) The Glendora Unified School District shall reinstate the sixth period, which shall be equivalent to at least 50 minutes of instruction, effective the start of the second semester of the 1983–84 fiscal year.

SEC. 32. Section 48209.16 of the Education Code is amended to read:

48209.16. This article shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 33. Section 48209.17 of the Education Code is repealed.

SEC. 34. Section 48916 of the Education Code is amended to read:

48916. (a) An expulsion order shall remain in effect until the governing board, in the manner prescribed in this article, orders the readmission of a pupil. At the time an expulsion of a pupil is ordered for an act other than those described in subdivision (c) of Section 48915, the governing board shall set a date, not later than the last day of the semester following the semester in which the expulsion occurred, when the pupil shall be reviewed for readmission. *If an expulsion is ordered during summer session or the intercession period of a year-round program the governing board shall set a date, not later than the last day of the semester following the summer session or intercession period in which the expulsion occurred, when the pupil shall be reviewed for readmission* to a school maintained by the district or to the school

1 the pupil last attended. For a pupil who has been expelled pursuant
2 to subdivision (c) of Section 48915, the governing board shall set
3 a date of one year from the date the expulsion occurred, when the
4 pupil shall be reviewed for readmission to a school maintained by
5 the district, except that the governing board may set an earlier date
6 for readmission on a case-by-case basis. ~~If an expulsion is ordered~~
7 ~~during summer session or the intercession period of a year-round~~
8 ~~program, the governing board shall set a date, not later than the last~~
9 ~~day of the semester following the summer session or intersession~~
10 ~~period during which the expulsion was ordered, when the pupil~~
11 ~~shall be reviewed for readmission to a school maintained by the~~
12 ~~district or to the school the pupil last attended.~~

13 (b) The governing board shall recommend a plan of
14 rehabilitation for the pupil at the time of the expulsion order, which
15 may include, but not be limited to, periodic review as well as
16 assessment at the time of review for readmission. The plan may
17 also include recommendations for improved academic
18 performance, tutoring, special education assessments, job
19 training, counseling, employment, community service, or other
20 rehabilitative programs.

21 (c) The governing board of each school district shall adopt
22 rules and regulations establishing a procedure for the filing and
23 processing of requests for readmission and the process for the
24 required review of all expelled pupils for readmission. Upon
25 completion of the readmission process, the governing board shall
26 readmit the pupil, unless the governing board makes a finding that
27 the pupil has not met the conditions of the rehabilitation plan or
28 continues to pose a danger to campus safety or to other pupils or
29 employees of the school district. A description of the procedure
30 shall be made available to the pupil and the pupil's parent or
31 guardian at the time the expulsion order is entered.

32 (d) If the governing board denies the readmission of an
33 expelled pupil pursuant to subdivision (c), the governing board
34 shall make a determination either to continue the placement of the
35 pupil in the alternative educational program initially selected for
36 the pupil during the period of the expulsion order or to place the
37 pupil in another program that may include, but need not be limited
38 to, serving expelled pupils, including placement in a county
39 community school.

(e) The governing board shall provide written notice to the expelled pupil and the pupil's parent or guardian describing the reasons for denying the pupil readmittance into the regular school district program. The written notice shall also include the determination of the educational program for the expelled pupil pursuant to subdivision (d). The expelled pupil shall enroll in that educational program unless the parent or guardian of the pupil elects to enroll the pupil in another school district.

SEC. 35. Section 48918 of the Education Code is amended to read:

48918. The governing board of each school district shall establish rules and regulations governing procedures for the expulsion of pupils. These procedures shall include, but are not necessarily limited to, all of the following:

(a) The pupil shall be entitled to a hearing to determine whether the pupil should be expelled. An expulsion hearing shall be held within 30 schooldays after the date the principal or the superintendent of schools determines that the pupil has committed any of the acts enumerated in Section 48900, unless the pupil requests, in writing, that the hearing be postponed. The adopted rules and regulations shall specify that the pupil is entitled to at least one postponement of an expulsion hearing, for a period of not more than 30 calendar days. Any additional postponement may be granted at the discretion of the governing board.

Within 10 schooldays after the conclusion of the hearing, the governing board shall decide whether to expel the pupil, unless the pupil requests in writing that the decision be postponed. If the hearing is held by a hearing officer or an administrative panel, or if the district governing board does not meet on a weekly basis, the governing board shall decide whether to expel the pupil within 40 schooldays after the date of the pupil's removal from his or her school of attendance for the incident for which the recommendation for expulsion is made by the principal or the superintendent, unless the pupil requests in writing that the decision be postponed.

If compliance by the governing board with the time requirements for the conducting of an expulsion hearing under this subdivision is impracticable during the regular school year, the superintendent of schools or the superintendent's designee may, for good cause, extend the time period for the holding of the

1 expulsion hearing for an additional five schooldays. If compliance
2 by the governing board with the time requirements for the
3 conducting of an expulsion hearing under this subdivision is
4 impractical due to a summer recess of governing board meetings
5 of more than two weeks, the days during the recess period shall not
6 be counted as schooldays in meeting the time requirements. The
7 days not counted as schooldays in meeting the time requirements
8 for an expulsion hearing because of a summer recess of governing
9 board meetings shall not exceed 20 schooldays, as defined in
10 subdivision (c) of Section 48925, and unless the pupil requests in
11 writing that the expulsion hearing be postponed, the hearing shall
12 be held not later than 20 calendar days prior to the first day of
13 school for the school year. Reasons for the extension of the time
14 for the hearing shall be included as a part of the record at the time
15 the expulsion hearing is conducted. Upon the commencement of
16 the hearing, all matters shall be pursued and conducted with
17 reasonable diligence and shall be concluded without any
18 unnecessary delay.

19 (b) Written notice of the hearing shall be forwarded to the pupil
20 at least 10 calendar days prior to the date of the hearing. The notice
21 shall include all of the following:

22 (1) The date and place of the hearing.

23 (2) A statement of the specific facts and charges upon which the
24 proposed expulsion is based.

25 (3) A copy of the disciplinary rules of the district that relate to
26 the alleged violation.

27 (4) A notice of the parent, guardian, or pupil's obligation
28 pursuant to subdivision (b) of Section 48915.1.

29 (5) Notice of the opportunity for the pupil or the pupil's parent
30 or guardian to appear in person or to be represented by legal
31 counsel or by a nonattorney adviser, to inspect and obtain copies
32 of all documents to be used at the hearing, to confront and question
33 all witnesses who testify at the hearing, to question all other
34 evidence presented, and to present oral and documentary evidence
35 on the pupil's behalf, including witnesses. In a hearing in which a
36 pupil is alleged to have committed or attempted to commit a sexual
37 assault as specified in subdivision (n) of Section 48900 or
38 committing a sexual battery as defined in subdivision (n) of
39 Section 48900, a complaining witness shall be given five days'
40 notice before being called to testify, and shall be entitled to have

up to two adult support persons, including, but not limited to, a parent, guardian, or legal counsel, present during their testimony. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential. Nothing in this subdivision shall preclude the person presiding over an expulsion hearing from removing a support person whom the presiding person finds is disrupting the hearing. If one or both of the support persons is also a witness, the provisions of Section 868.5 of the Penal Code shall be followed for the hearing. This section does not require a pupil or the pupil's parent or guardian to be represented by legal counsel or by a nonattorney adviser at the hearing.

(A) For purposes of this section, "legal counsel" means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

(B) For purposes of this section, "nonattorney advisor" means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case, and has been selected by the pupil or pupil's parent or guardian to provide assistance at the hearing.

(c) Notwithstanding Section 54593 of the Government Code and Section 35145, the governing board shall conduct a hearing to consider the expulsion of a pupil in a session closed to the public, unless the pupil requests, in writing, at least five days before the date of the hearing, that the hearing be conducted at a public meeting. Regardless of whether the expulsion hearing is conducted in a closed or public session, the governing board may meet in closed session for the purpose of deliberating and determining whether the pupil should be expelled.

If the governing board or the hearing officer or administrative panel appointed under subdivision (d) to conduct the hearing admits any other person to a closed deliberation session, the parent or guardian of the pupil, the pupil, and the counsel of the pupil also shall be allowed to attend the closed deliberations.

If the hearing is to be conducted at a public meeting, and there is a charge of committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of Section 48900, a complaining witness shall have the right to have his or her testimony heard in a session closed to the public when testifying at a public meeting would threaten serious psychological harm to the complaining witness and there are no alternative procedures to

1 avoid the threatened harm, including, but not limited to,
2 videotaped deposition or contemporaneous examination in
3 another place communicated to the hearing room by means of
4 closed-circuit television.

5 (d) Instead of conducting an expulsion hearing itself, the
6 governing board may contract with the county hearing officer, or
7 with the Office of Administrative Hearings of the State of
8 California pursuant to Chapter 14 (commencing with Section
9 27720) of Part 3 of Division 2 of Title 3 of the Government Code
10 and Section 35207, for a hearing officer to conduct the hearing.
11 The governing board may also appoint an impartial administrative
12 panel of three or more certificated persons, none of whom is a
13 member of the board or employed on the staff of the school in
14 which the pupil is enrolled. The hearing shall be conducted in
15 accordance with all of the procedures established under this
16 section.

17 (e) Within three schooldays after the hearing, the hearing
18 officer or administrative panel shall determine whether to
19 recommend the expulsion of the pupil to the governing board. If
20 the hearing officer or administrative panel decides not to
21 recommend expulsion, the expulsion proceedings shall be
22 terminated and the pupil immediately shall be reinstated and
23 permitted to return to a classroom instructional program, any other
24 instructional program, a rehabilitation program, or any
25 combination of these programs. Placement in one or more of these
26 programs shall be made by the superintendent of schools or the
27 superintendent's designee after consultation with school district
28 personnel, including the pupil's teachers, and the pupil's parent or
29 guardian. The decision not to recommend expulsion shall be final.

30 (f) If the hearing officer or administrative panel recommends
31 expulsion, findings of fact in support of the recommendation shall
32 be prepared and submitted to the governing board. All findings of
33 fact and recommendations shall be based solely on the evidence
34 adduced at the hearing. If the governing board accepts the
35 recommendation calling for expulsion, acceptance shall be based
36 either upon a review of the findings of fact and recommendations
37 submitted by the hearing officer or panel or upon the results of any
38 supplementary hearing conducted pursuant to this section that the
39 governing board may order.



1 The decision of the governing board to expel a pupil shall be
2 based upon substantial evidence relevant to the charges adduced
3 at the expulsion hearing or hearings. Except as provided in this
4 section, no evidence to expel shall be based solely upon hearsay
5 evidence. The governing board or the hearing officer or
6 administrative panel may, upon a finding that good cause exists,
7 determine that the disclosure of either the identity of a witness or
8 the testimony of that witness at the hearing, or both, would subject
9 the witness to an unreasonable risk of psychological or physical
10 harm. Upon this determination, the testimony of the witness may
11 be presented at the hearing in the form of sworn declarations which
12 shall be examined only by the governing board or the hearing
13 officer or administrative panel. Copies of these sworn
14 declarations, edited to delete the name and identity of the witness,
15 shall be made available to the pupil.

16 (g) A record of the hearing shall be made. The record may be
17 maintained by any means, including electronic recording, so long
18 as a reasonably accurate and complete written transcription of the
19 proceedings can be made.

20 (h) Technical rules of evidence shall not apply to the hearing,
21 but relevant evidence may be admitted and given probative effect
22 only if it is the kind of evidence upon which reasonable persons are
23 accustomed to rely in the conduct of serious affairs. A decision of
24 the governing board to expel shall be supported by substantial
25 evidence showing that the pupil committed any of the acts
26 enumerated in Section 48900.

27 In hearings which include an allegation of committing or
28 attempting to commit a sexual assault as defined in subdivision (n)
29 of Section 48900 or committing a sexual battery as defined in
30 subdivision (n) of Section 48900, evidence of specific instances,
31 of a complaining witness' prior sexual conduct is to be presumed
32 inadmissible and shall not be heard absent a determination by the
33 person conducting the hearing that extraordinary circumstances
34 exist requiring the evidence be heard. Before the person
35 conducting the hearing makes the determination on whether
36 extraordinary circumstances exist requiring that specific instances
37 of a complaining witness' prior sexual conduct be heard, the
38 complaining witness shall be provided notice and an opportunity
39 to present opposition to the introduction of the evidence. In the
40 hearing on the admissibility of the evidence, the complaining



1 witness shall be entitled to be represented by a parent, guardian,
2 legal counsel, or other support person. Reputation or opinion
3 evidence regarding the sexual behavior of the complaining witness
4 is not admissible for any purpose.

5 (i) (1) Before the hearing has commenced, the governing
6 board may issue subpoenas at the request of either the
7 superintendent of schools or the superintendent's designee or the
8 pupil, for the personal appearance of percipient witnesses at the
9 hearing. After the hearing has commenced, the governing board or
10 the hearing officer or administrative panel may, upon request of
11 either the county superintendent of schools or the superintendent's
12 designee or the pupil, issue subpoenas. All subpoenas shall be
13 issued in accordance with Sections 1985, 1985.1, and 1985.2 of the
14 Code of Civil Procedure. Enforcement of subpoenas shall be done
15 in accordance with Section 11455.20 of the Government Code.

16 (2) Any objection raised by the superintendent of schools or the
17 superintendent's designee or the pupil to the issuance of subpoenas
18 may be considered by the governing board in closed session, or in
19 open session, if so requested by the pupil before the meeting. Any
20 decision by the governing board in response to an objection to the
21 issuance of subpoenas shall be final and binding.

22 (3) If the governing board, hearing officer, or administrative
23 panel determines, in accordance with subdivision (f), that a
24 percipient witness would be subject to an unreasonable risk of
25 harm by testifying at the hearing, a subpoena shall not be issued
26 to compel the personal attendance of that witness at the hearing.
27 However, that witness may be compelled to testify by means of a
28 sworn declaration as provided for in subdivision (f).

29 (4) Service of process shall be extended to all parts of the state
30 and shall be served in accordance with Section 1987 of the Code
31 of Civil Procedure. All witnesses appearing pursuant to subpoena,
32 other than the parties or officers or employees of the state or any
33 political subdivision thereof, shall receive fees, and all witnesses
34 appearing pursuant to subpoena, except the parties, shall receive
35 mileage in the same amount and under the same circumstances as
36 prescribed for witnesses in civil actions in a superior court. Fees
37 and mileage shall be paid by the party at whose request the witness
38 is subpoenaed.

39 (j) Whether an expulsion hearing is conducted by the
40 governing board or before a hearing officer or administrative

1 panel, final action to expel a pupil shall be taken only by the
2 governing board in a public session. Written notice of any decision
3 to expel or to suspend the enforcement of an expulsion order
4 during a period of probation shall be sent by the superintendent of
5 schools or his or her designee to the pupil or the pupil's parent or
6 guardian and shall be accompanied by all of the following:

7 (1) Notice of the right to appeal the expulsion to the county
8 board of education.

9 (2) Notice of the education alternative placement to be
10 provided to the pupil during the time of expulsion.

11 (3) Notice of the obligation of the parent, guardian, or pupil
12 under subdivision (b) of Section 48915.1, upon the pupil's
13 enrollment in a new school district, to inform that district of the
14 pupil's expulsion.

15 (k) The governing board shall maintain a record of each
16 expulsion, including the cause therefor. Records of expulsions
17 shall be a nonprivileged, disclosable public record.

18 The expulsion order and the causes therefor shall be recorded in
19 the pupil's mandatory interim record and shall be forwarded to any
20 school in which the pupil subsequently enrolls upon receipt of a
21 request from the admitting school for the pupil's school records.

22 SEC. 36. Section 48980 of the Education Code is amended to
23 read:

24 48980. (a) At the beginning of the first semester or quarter of
25 the regular school term, the governing board of each school district
26 shall notify the parent or guardian of its minor pupils regarding the
27 right or responsibility of the parent or guardian under Sections
28 35291, 46014, 48205, 48207, 48208, 49403, 49423, 49451,
29 49472, 51240, and 51550 and Chapter 2.3 (commencing with
30 Section 32255) of Part 19.

31 (b) The notification also shall advise the parent or guardian of
32 the availability of individualized instruction as prescribed by
33 Section 48206.3, and of the program prescribed by Article 9
34 (commencing with Section 49510) of Chapter 9.

35 (c) The notification shall also advise the parents and guardians
36 of all pupils attending a school within the district of the schedule
37 of minimum days and pupil-free staff development days, and if
38 any minimum or pupil-free staff development days are scheduled
39 thereafter, the governing board shall notify parents and guardians

1 of the affected pupils as early as possible, but not later than one
2 month before the scheduled minimum or pupil-free day.

3 (d) The notification also may advise the parent or guardian of
4 the importance of investing for future college or university
5 education for their children and of considering appropriate
6 investment options including, but not limited to, United States
7 Savings Bonds.

8 (e) Commencing with the 2000–01 school year, and each
9 school year thereafter, the notification shall advise the parent or
10 guardian of the pupil that, commencing with the 2003–04 school
11 year, and each school year thereafter, each pupil completing 12th
12 grade will be required to successfully pass the high school exit
13 examination administered pursuant to Chapter 8 (commencing
14 with Section 60850) of Part 33. The notification shall include, at
15 a minimum, the date of the examination, the requirements for
16 passing the examination, and shall inform the parents and
17 guardians regarding the consequences of not passing the
18 examination and shall inform parents and guardians that passing
19 the examination is a condition of graduation.

20 (f) Each school district that elects to provide a fingerprinting
21 program pursuant to Article 10 (commencing with Section 32390)
22 shall inform parents or guardians of the program as specified in
23 Section 32390.

24 (g) The notification shall also include a copy of the district's
25 written policy on sexual harassment established pursuant to
26 Section 212.6, as it relates to pupils.

27 (h) Commencing July 1, 1998, the notification shall include a
28 copy of the written policy of the school district adopted pursuant
29 to Section 51870.5 regarding access by pupils to Internet and
30 online sites.

31 (i) The notification shall advise the parent or guardian of all
32 current statutory attendance options and local attendance options
33 available in the school district. That notification shall include all
34 options for meeting residency requirements for school attendance,
35 programmatic options offered within the local attendance areas,
36 and any special programmatic options available on both an
37 interdistrict and intradistrict basis. That notification shall also
38 include a description of all options, a description of the procedure
39 for application for alternative attendance areas or programs, an
40 application form from the district for requesting a change of

attendance, and a description of the appeals process available, if any, for a parent or guardian denied a change of attendance. The notification shall also include an explanation of the current statutory attendance options including, but not limited to, those available under Section 35160.5, Chapter 5 (commencing with Section 46600) of Part 26, subdivision (f) of Section 48204, and Article 1.5 (commencing with Section 48209) of Chapter 2 of Part 27. The State Department of Education shall produce this portion of the notification and shall distribute it to all school districts.

(j) It is the intent of the Legislature that the governing board of each school district annually review the enrollment options available to the pupils within their districts and that the school districts strive to make available enrollment options that meet the diverse needs, potential, and interests of California's pupils.

(k) The notification shall advise the parent or guardian that no pupil may have his or her grade reduced or lose academic credit for any absence or absences excused pursuant to Section 48205 when missed assignments and tests that can reasonably be provided are satisfactorily completed within a reasonable period of time, and shall include the full text of Section 48205.

(l) The notification shall advise the parent or guardian of the availability of state funds to cover the costs of advanced placement examination fees pursuant to Section 52244.

SEC. 37. Section 51132 of the Education Code is repealed.

SEC. 38. Section 51882 of the Education Code is repealed.

SEC. 39. Section 52055.600 of the Education Code is amended to read:

52055.600. (a) The High Priority Schools Grant Program for Low Performing Schools is hereby established. Participation in this program is voluntary.

(b) From funds made available for purposes of this article, the Superintendent of Public Instruction shall allocate a total of four hundred dollars (\$400) per pupil, but not less than fifty thousand dollars (\$50,000), including funds received pursuant to Section 52054.5 or for the Comprehensive School Reform Demonstration Program (Public Law 105-78), to eligible schools for implementation of a school action plan approved pursuant to this article. In the first year of participation, instead of four hundred dollars (\$400) per pupil, a schoolsite may receive a total of thirty-three dollars and thirty-three cents (\$33.33) per pupil for

1 each month remaining in the fiscal year ending June 30, 2003,
2 beginning in the month immediately following the date of
3 approval by the State Board of Education of the action plan
4 required pursuant to this article. If the plan is not approved prior
5 to the end of the fiscal year, the funding shall be similarly prorated
6 in the subsequent year.

7 (c) It is the intent of the Legislature that federal funding
8 provided pursuant to the Comprehensive School Reform
9 Demonstration Program (P.L. 105-78) supplement, not supplant,
10 funding received pursuant to this article.

11 (d) Funds received pursuant to this article may not be used to
12 match funds received pursuant to Article 3 (commencing with
13 Section 52053).

14 (e) The school district shall keep fiscal records available for
15 inspection that affirm allocation to schoolsites in accordance with
16 this section and shall allocate resources in a manner that does not
17 delay their use.

18 (f) Notwithstanding any other provision of law, a school
19 district receiving funding pursuant to this section in the 2002–03
20 ~~fiscal year may carry over funds until the end of the 2003–04 fiscal~~
21 *fiscal year or any other fiscal year may carry over funds to each*
22 *subsequent fiscal year.*

23 SEC. 40. Section 52055.640 of the Education Code is
24 amended to read:

25 52055.640. (a) As a condition of the receipt of funds for the
26 initial and each subsequent year of funding pursuant to this article
27 and to ensure that the school is progressing towards meeting the
28 goals of each of the essential components of its school action plan,
29 each year the school district shall submit a report to the
30 Superintendent of Public Instruction that includes the following:

31 (1) The academic improvement of pupils within the
32 participating school as measured by the tests under Section 60640
33 and the progress made towards achieving English language
34 proficiency as measured by the English language development test
35 administered pursuant to Section 60810.

36 (2) The improvement of distribution of experienced teachers
37 holding a valid California teaching credential across the district.

38 (3) The availability of instructional materials in core content
39 areas that are aligned with the academic content and performance

1 standards, including textbooks, for each pupil, including English
2 language learners.

3 (4) The number of parents and guardians presently involved at
4 each participating schoolsite as compared to the number
5 participating at the beginning of the program.

6 (5) The number of pupils attending afterschool, tutoring, or
7 homework assistance programs.

8 (6) For participating secondary schools, the number of pupils
9 who are enrolled in and successfully completing advanced
10 placement courses, by type, and requirements for admission to the
11 University of California or the California State University,
12 including courses in algebra, biology, and United States or world
13 history.

14 (b) The report on the pupil literacy and achievement
15 component shall be disaggregated by numerically significant
16 subgroups, as defined in Section 52052, and English language
17 learners and have a focus on improved scores in reading and
18 mathematics as measured by the following:

19 (1) The Academic Performance Index, including the data
20 collected pursuant to tests that are part of the Standardized Testing
21 and Reporting Program and the writing sample that is part of that
22 program.

23 (2) The results of the primary language test pursuant to Section
24 60640.

25 (3) Graduation rates, when the methodology for collecting this
26 data has been confirmed to be valid and reliable.

27 (4) In addition, a school may use locally developed
28 assessments to assist it in determining the pupil progress in
29 academic literacy and achievement.

30 (c) The report on the quality of staff component shall include,
31 but not be limited to, the following information:

32 (1) The number of teachers at the schoolsite holding a valid
33 California teaching credential or district or university intern
34 certificate or credential compared to those teachers at the same
35 schoolsite holding a preintern certificate, emergency permit, or
36 waiver.

37 (2) The number and ratio of teachers across the district holding
38 a valid California teaching credential or district or university
39 intern certificate or credential compared to those holding a
40 preintern certificate, emergency permit, or waiver.

(3) The number of principals having completed training pursuant to Article 4.6 (commencing with Section 44510) of Chapter 3 of Part 25.

(4) The number of principals by credential type or years of experience and length of time at the schoolsite by years.

(d) The report on the parental involvement component shall include explicit involvement strategies being implemented at the schoolsite that are directly linked to activities supporting pupil academic achievement and verification that the schoolsite has developed a school-parent compact as required by Section 51101.

(e) All comparisons made in the reports required pursuant to this section shall be based on baseline data provided by the district and schoolsite in the action plan that is certified and submitted with the initial application.

(f) To the extent that data is already reported to the Superintendent of Public Instruction, a school district need not include the data in the reports submitted pursuant to this section.

(g) Before submitting the reports required pursuant to this section, the school district shall, at a regularly scheduled public meeting of the governing board, review a participating school's progress towards achieving those goals.

SEC. 41. *Section 56000 of the Education Code is amended to read:*

56000. The Legislature finds and declares that all individuals with exceptional needs, *from birth through 21 years of age*, have a right to participate in free appropriate public education and that special educational instruction and services for these persons are needed in order to ensure ~~them~~ of the right to an appropriate educational opportunity to meet their unique needs. *The Legislature further finds and declares that California provides full educational opportunity to all eligible individuals with exceptional needs in accordance with paragraph (2) of subsection (a) of Section 1412 of Title 20 of the United States Code.*

It is the intent of the Legislature to unify and improve special education programs in California under the flexible program design of the Master Plan for Special Education. It is the further intent of the Legislature to ~~assure~~ *ensure* that all individuals with exceptional needs are provided their rights to appropriate programs and services which are designed to meet their unique

needs under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

It is the further intent of the Legislature that ~~nothing in this part shall be construed to~~ *does not* abrogate any right provided to individuals with exceptional needs and their parents or guardians under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.). It is also the intent of the Legislature that ~~nothing in this part shall be construed to~~ *does not* set a higher standard of educating individuals with exceptional needs than that established by Congress under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

It is the further intent of the Legislature that the Master Plan for Special Education provide an educational opportunity for individuals with exceptional needs that is equal to or better than that provided prior to the implementation of programs under this part, including, but not limited to, those provided to individuals previously served in a development center for handicapped pupils.

It is the intent of the Legislature that the restructuring of special education programs as set forth in the Master Plan for Special Education be implemented in accordance with provisions of this part by all school districts and county offices ~~during a two-year transitional period commencing with fiscal year 1980-81, with full implementation to be completed by June 30, 1982.~~

SEC. 42. Section 56001 of the Education Code is amended to read:

56001. It is the intent of the Legislature that special education programs provide all of the following:

(a) Each individual with exceptional needs is assured an education appropriate to his or her needs in publicly supported programs through completion of his or her prescribed course of study and until he or she meets graduation requirements or until he or she becomes 22 years of age, as specified in Section 56026 and 56026.1.

(b) By June 30, 1991, early educational opportunities shall be available to all children between the ages of three and five years who require special education and services.

(c) Early educational opportunities shall be made available to children younger than three years of age pursuant to Chapter 4.4 (commencing with Section 56425), appropriate sections of this

part, and the California Early Intervention Service Act, Title 14 (commencing with Section 95000) of the Government Code.

(d) Any child younger than three years, potentially eligible for special education, shall be afforded the protections provided pursuant to the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code and Section 1439 of Title 20 of the United States Code and implementing regulations.

(e) Each individual with exceptional needs shall have his or her educational goals, objectives, and special education and related services specified in a written individualized education program.

(f) Education programs are provided under an approved local plan for special education that sets forth the elements of the programs in accordance with this part. This plan for special education shall be developed cooperatively with input from the community advisory committee and appropriate representation from special and regular teachers and administrators selected by the groups they represent to ensure effective participation and communication.

(g) Individuals with exceptional needs are offered special assistance programs that promote maximum interaction with the general school population in a manner that is appropriate to the needs of both, taking into consideration, for hard-of-hearing or deaf children, the individual's needs for a sufficient number of age and language mode peers and for special education teachers who are proficient in the individual's primary language mode.

(h) Pupils are transferred out of special education programs when special education services are no longer needed.

(i) The unnecessary use of labels is avoided in providing special education and related services for individuals with exceptional needs.

(j) Procedures and materials for assessment and placement of individuals with exceptional needs shall be selected and administered so as not to be racially, culturally, or sexually discriminatory. No single assessment instrument shall be the sole criterion for determining placement of a pupil. The procedures and materials for assessment and placement shall be in the individual's mode of communication. Procedures and materials for use with pupils of limited English proficiency, as defined in subdivision (m) of Section 52163, shall be in the individual's primary

1 language. All assessment materials and procedures shall be
2 selected and administered pursuant to Section 56320.

3 (k) Educational programs are coordinated with other public
4 and private agencies, including preschools, child development
5 programs, nonpublic nonsectarian schools, regional occupational
6 centers and programs, and postsecondary and adult programs for
7 individuals with exceptional needs.

8 (l) Psychological and health services for individuals with
9 exceptional needs shall be available to each schoolsite.

10 (m) Continuous evaluation of the effectiveness of these special
11 education programs by the school district, special education local
12 plan area, or county office shall be made to ensure the highest
13 quality educational offerings.

14 (n) Appropriate qualified staff are employed, consistent with
15 credentialing requirements, to fulfill the responsibilities of the
16 local plan and positive efforts are made to employ qualified
17 disabled individuals.

18 (o) Regular and special education personnel are adequately
19 prepared to provide educational instruction and services to
20 individuals with exceptional needs.

21 ~~SEC. 42.~~

22 *SEC. 43.* Section 56028 of the Education Code is amended to
23 read:

24 56028. (a) “Parent,” includes any of the following:

25 (1) A person having legal custody of a child.

26 (2) Any adult pupil for whom no guardian or conservator has
27 been appointed.

28 (3) A person acting in the place of a parent (such as a
29 grandparent or stepparent with whom the child lives). “Parent”
30 also includes a parent surrogate.

31 (4) A foster parent if the natural parents’ authority to make
32 educational decisions on the child’s behalf has been specifically
33 limited by court order in accordance with subsection (b) of Section
34 300.20 of Title 34 of the Code of Federal Regulations.

35 (b) “Parent” does not include the state or any political
36 subdivision of government.

37 ~~SEC. 43.~~

38 *SEC. 44.* Section 56032 of the Education Code is amended to
39 read:

1 56032. “Individualized education program” means a written
2 document described in Sections 56345 and 56345.1 for an
3 individual with exceptional needs that is developed, reviewed, and
4 revised in a meeting in accordance with Sections 300.340 to
5 300.350, inclusive, of Title 34 of the Code of Federal Regulations
6 and this part. It also means “individualized family service plan”
7 as described in Section 1436 of Title 20 of the United States Code
8 when individualized education program pertains to individuals
9 with exceptional needs younger than three years of age.

10 ~~SEC. 44.~~

11 *SEC. 45. Section 56040 of the Education Code is amended to*
12 *read:*

13 56040. (a) Every individual with exceptional needs, who is
14 eligible to receive educational instruction, related services, or both
15 under this part shall receive ~~such~~ educational instruction, services,
16 or both, at no cost to his or her parents or, as appropriate, to him
17 or her. *A free appropriate public education shall be available to*
18 *individuals with exceptional needs in accordance with paragraph*
19 *(1) of subsection (a) of Section 1412 of Title 20 of the United States*
20 *Code and Section 300.121 of Title 34 of the Code of Federal*
21 *Regulations.*

22 (b) *An individual, aged 18 to 21, who, in the educational*
23 *placement prior to his or her incarceration in an adult correctional*
24 *facility was not identified as being an individual with exceptional*
25 *needs or did not have an individualized education program under*
26 *this part, is not entitled to a free appropriate public education*
27 *pursuant to clause (ii) of subparagraph (B) of paragraph (1) of*
28 *subsection (a) of Section 1412 of the United States Code.*

29 *SEC. 46. Section 56043 of the Education Code is amended to*
30 *read:*

31 56043. The primary timelines affecting special education
32 programs are as follows:

33 (a) A proposed assessment plan shall be developed within 15
34 calendar days of referral for assessment, not counting calendar
35 days between the pupil’s regular school sessions or terms or
36 calendar days of school vacation in excess of five schooldays from
37 the date of receipt of the referral, unless the parent or guardian
38 agrees, in writing, to an extension, pursuant to subdivision (a) of
39 Section 56321.

1 (b) A parent or guardian shall have at least 15 calendar days
2 from the receipt of the proposed assessment plan to arrive at a
3 decision, pursuant to subdivision (c) of Section 56321.

4 (c) A parent or guardian shall be notified of the individualized
5 education program meeting early enough to ensure an opportunity
6 to attend, pursuant to subdivision (b) of Section 56341.5.

7 (d) An individualized education program required as a result of
8 an assessment of a pupil shall be developed within a total time not
9 to exceed 50 calendar days, not counting days between the pupil's
10 regular school sessions, terms, or days of school vacation in excess
11 of five schooldays, from the date of receipt of the parent's or
12 guardian's written consent for assessment, unless the parent or
13 guardian agrees, in writing, to an extension, pursuant to Section
14 56344. *However, an individualized education program meeting for*
15 *the pupil shall be conducted within 30 days of a determination that*
16 *the child needs special education and related services pursuant to*
17 *paragraph (2) of subsection (b) of Section 300.343 of Title 34 of*
18 *the Code of Federal Regulations and in accordance with Section*
19 *56344.*

20 (e) Beginning at age 14 or younger, if determined by the
21 individualized education program team pursuant to paragraph (1)
22 of subsection (b) of Section 300.347 of Title 34 of the Code of
23 Federal Regulations, and updated annually, a statement of the
24 transition service needs of the pupil shall be included in the pupil's
25 individualized education program, pursuant to subdivision (a) of
26 Section 56345.1.

27 (f) Beginning at age 16, or younger, and annually thereafter, a
28 statement of needed transition services shall be included in the
29 pupil's individualized education program, pursuant to subdivision
30 (b) of Section 56345.1.

31 (g) A pupil's individualized education program shall be
32 implemented as soon as possible following the individualized
33 education program meeting, pursuant to Section 3040 of Title 5 of
34 the California Code of Regulations.

35 (h) An individualized education program team shall meet at
36 least annually to review a pupil's progress, the individualized
37 education program, including whether the annual goals for the
38 pupil are being achieved, the appropriateness of the placement,
39 and to make any necessary revisions, pursuant to subdivision (d)

1 of Section 56343, subdivision (a) of Section 56380, and Section
2 3068 of Title 5 of the California Code of Regulations.

3 (i) A reassessment of a pupil shall be conducted at least once
4 every three years or more frequently, if conditions warrant a
5 reassessment and a new individualized education program to be
6 developed, pursuant to Section 56381.

7 (j) A meeting of an individualized education program team
8 requested by a parent or guardian to review an individualized
9 education program pursuant to subdivision (c) of Section 56343
10 shall be held within 30 calendar days, not counting days in July and
11 August, from the date of receipt of the parent's or guardian's
12 written request, pursuant to Section 56343.5.

13 (k) The administrator of a local program under this part shall
14 ensure that the pupil is immediately provided an interim placement
15 for a period not to exceed 30 calendar days whenever a pupil
16 transfers into a school district from a school district not operating
17 programs under the same local plan in which he or she was last
18 enrolled in a special education program pursuant to Section 56325.

19 (l) The parent or guardian shall have the right and opportunity
20 to examine all school records of the child and to receive copies
21 within five calendar days after a request is made by the parent or
22 guardian, either orally or in writing, pursuant to Section 56504 and
23 Chapter 6.5 (commencing with Section 49060) of Part 27.

24 (m) Upon receipt of a request from an educational agency
25 where an individual with exceptional needs has enrolled, a former
26 educational agency shall send the pupil's special education
27 records, or a copy thereof, within five working days, pursuant to
28 subdivision (a) of Section 3024 of Title 5 of the California Code
29 of Regulations.

30 (n) The department shall do all of the following:

31 (1) Have a time limit of 60 calendar days after a complaint is
32 filed with the state education agency to investigate the complaint.

33 (2) Give the complainant the opportunity to submit additional
34 information about the allegations in the complaint.

35 (3) Review all relevant information and make an independent
36 determination as to whether there is a violation of a requirement
37 of this part or Part B of the Individuals with Disabilities Education
38 Act (20 U.S.C. Sec. 1400 et seq.).

39 (4) Issue a written decision, pursuant to Section 300.661 of
40 Title 34 of the Code of Federal Regulations.

1 (o) A prehearing mediation conference shall be scheduled
2 within 15 calendar days of receipt by the superintendent of the
3 request for mediation, and shall be completed within 30 calendar
4 days after the request for mediation, unless both parties to the
5 prehearing mediation conference agree to extend the time for
6 completing the mediation, pursuant to Section 56500.3.

7 (p) Any request for a due process hearing arising from
8 subdivision (a) of Section 56501 shall be filed within three years
9 from the date the party initiating the request knew or had reason
10 to know of facts underlying the basis for the request, pursuant to
11 subdivision (j) of Section 56505.

12 (q) The superintendent shall ensure that, within 45 calendar
13 days after receipt of a written due process hearing request, the
14 hearing is immediately commenced and completed, including any
15 mediation requested at any point during the hearing process, and
16 a final administrative decision is rendered, pursuant to subdivision
17 (a) of Section 56502.

18 (r) If either party to a due process hearing intends to be
19 represented by an attorney in the due process hearing, notice of that
20 intent shall be given to the other party at least 10 calendar days
21 prior to the hearing, pursuant to subdivision (a) of Section 56507.

22 (s) Any party to a due process hearing shall have the right to be
23 informed by the other parties to the hearing, at least 10 calendar
24 days prior to the hearing, as to what those parties believe are the
25 issues to be decided at the hearing and their proposed resolution
26 of those issues, pursuant to paragraph (6) of subdivision (e) of
27 Section 56505.

28 (t) Any party to a due process hearing shall have the right to
29 receive from other parties to the hearing, at least five business days
30 prior to the hearing, a copy of all documents, including all
31 assessments completed and not completed by that date, and a list
32 of all witnesses and their general area of testimony that the parties
33 intend to present at the hearing, pursuant to paragraph (7) of
34 subdivision (e) of Section 56505.

35 (u) An appeal of a due process hearing decision shall be made
36 within 90 calendar days of receipt of the hearing decision, pursuant
37 to subdivision (i) of Section 56505.

38 (v) When an individualized education program calls for a
39 residential placement as a result of a review by an expanded
40 individualized education program team, the individualized

1 education program shall include a provision for a review, at least
2 every six months, by the full individualized education program
3 team of all of the following pursuant to paragraph (2) of
4 subdivision (c) of Section 7572.5 of the Government Code:

5 (1) The case progress.

6 (2) The continuing need for out-of-home placement.

7 (3) The extent of compliance with the individualized education
8 program.

9 (4) Progress toward alleviating the need for out-of-home care.

10 (w) No later than the pupil's 17th birthday, a statement shall be
11 included in the pupil's individualized education program that the
12 pupil has been informed of his or her rights that will transfer to the
13 pupil upon reaching 18 years of age pursuant to Section 300.517
14 of Title 34 of the Code of Federal Regulations, Section 56041.5,
15 and paragraph (8) of subdivision (a) of Section 56345.

16 ~~SEC. 45.~~

17 *SEC. 47.* Section 56170 of the Education Code is amended to
18 read:

19 56170. As used in this part, "private school children with
20 disabilities" means children with disabilities enrolled by a parent
21 in private preschools or private elementary and secondary schools
22 or facilities, in accordance with Section 300.450 of Title 34 of the
23 Code of Federal Regulations other than individuals with
24 exceptional needs placed by a district, special education local plan
25 area, or county office in a nonpublic, nonsectarian school pursuant
26 to Section 56365.

27 ~~SEC. 46.~~

28 *SEC. 48.* *Section 56195.7 of the Education Code is amended*
29 *to read:*

30 56195.7. In addition to the provisions required to be included
31 in the local plan pursuant to Chapter 3 (commencing with Section
32 56200), each special education local plan area that submits a local
33 plan pursuant to subdivision (b) of Section 56195.1 and each
34 county office that submits a local plan pursuant to subdivision (c)
35 of Section 56195.1 shall develop written agreements to be entered
36 into by entities participating in the plan. The agreements need not
37 be submitted to the superintendent. These agreements shall
38 include, but not be limited to, the following:

39 (a) A coordinated identification, referral, and placement
40 system pursuant to Chapter 4 (commencing with Section 56300).

1 (b) Procedural safeguards pursuant to Chapter 5 (commencing
2 with Section 56500).

3 (c) Regionalized services to local programs, including, but not
4 limited to, all of the following:

5 (1) Program specialist service pursuant to Section 56368.

6 (2) Personnel development, including training for staff,
7 parents, and members of the community advisory committee
8 pursuant to Article 3 (commencing with Section 56240).

9 (3) Evaluation pursuant to Chapter 6 (commencing with
10 Section 56600).

11 (4) Data collection and development of management
12 information systems.

13 (5) Curriculum development.

14 (6) Provision for ongoing review of programs conducted, and
15 procedures utilized, under the local plan, and a mechanism for
16 correcting any identified problem.

17 (d) A description of the process for coordinating services with
18 other local public agencies that are funded to serve individuals
19 with exceptional needs.

20 (e) A description of the process for coordinating and providing
21 services to individuals with exceptional needs placed in public
22 hospitals, proprietary hospitals, and other residential medical
23 facilities pursuant to Article 5.5 (commencing with Section
24 56167) of Chapter 2.

25 (f) A description of the process for coordinating and providing
26 services to individuals with exceptional needs placed in licensed
27 children's institutions and foster family homes pursuant to Article
28 5 (commencing with Section 56155) of Chapter 2.

29 (g) A description of the process for coordinating and providing
30 services to individuals with exceptional needs placed in juvenile
31 court schools or county community schools pursuant to Section
32 56150.

33 (h) A budget for special education and related services that
34 shall be maintained by the special education local plan area and be
35 open to the public covering the entities providing programs or
36 services within the special education local plan area. The budget
37 language shall be presented in a form that is understandable by the
38 general public. For each local educational agency or other entity
39 providing a program or service, the budget, at minimum, shall
40 display the following:

(1) Expenditures by object code and classification for the previous fiscal year and the budget by the same object code classification for the current fiscal year.

(2) The number and type of certificated instructional and support personnel, including the type of class setting to which they are assigned, if appropriate.

(3) The number of instructional aides and other qualified classified personnel.

(4) The number of enrolled individuals with exceptional needs receiving each type of service provided.

(i) For multidistrict special education local plan areas, a description of the policymaking process that shall include a description of the local method used to distribute state and federal funds among the local educational agencies in the special education local plan area. The local method to distribute funds shall be approved according to the policymaking process established consistent with subdivision (f) of Section 56001 and pursuant to paragraph (3) of subdivision (b) of Section 56205 or subdivision (c) of Section 56200, whichever is appropriate.

(1) In accordance with subsection (a) of Section 1413 of Title 20 of the United States Code, each multidistrict special education local plan area established pursuant to subdivision (b) of Section 56195.1 shall have a written procedure for the ongoing review of programs conducted, and procedures utilized, under the local plan, and a mechanism for correcting any identified problem pursuant to paragraph (6) of subdivision (c).

(2) Multidistrict special education local plan areas established pursuant to subdivision (b) of Section 56195.1 and a district or districts joined with the county office of education in accordance with subdivision (c) of Section 56195.1 shall have a written agreement entered into by entities participating in the local plan that includes a provision for ongoing review of programs conducted, and procedures utilized, under the local plan, and a mechanism for correcting any identified problem pursuant to paragraph (6) of subdivision (c).

SEC. 49. Section 56205 of the Education Code is amended to read:

56205. (a) Each special education local plan area submitting a local plan to the superintendent under this part shall assure, in conformity with subsection (a) of Section 1412 of, and paragraph

(1) of subsection (a) of Section 1413 of, Title 20 of the United States Code, that it has in effect policies, procedures, and programs that are consistent with state laws, regulations, and policies governing the following:

(1) Free appropriate public education.

(2) Full educational opportunity.

(3) Child find and referral.

(4) Individualized education programs, including development, implementation, review, and revision.

(5) Least restrictive environment.

(6) Procedural safeguards.

(7) Annual and triennial assessments.

(8) Confidentiality.

(9) Transition from Subchapter III (commencing with Section 1431) of Title 20 of the United States Code to the preschool program.

(10) Children in private schools.

(11) Compliance assurances, including general compliance with the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), federal regulations relating thereto, and this part.

(12) (A) A description of the governance and administration of the plan, including identification of the governing body of a multidistrict plan or the individual responsible for administration in a single district plan, and of the elected officials to whom the governing body or individual is responsible.

(B) A description of the regionalized operations and services listed in Section 56836.23 and the direct instructional support provided by program specialists in accordance with Section 56368 to be provided through the plan.

(C) Verification that a community advisory committee has been established pursuant to Section 56190.

(D) Multidistrict plans, submitted pursuant to subdivision (b) or (c) of Section 56195.1, shall do the following:

(i) Specify the responsibilities of each participating county office and district governing board in the policymaking process, the responsibilities of the superintendents of each participating district and county in the implementation of the plan, and the

1 responsibilities of district and county administrators of special
2 education in coordinating the administration of the local plan.

3 (ii) Identify the respective roles of the administrative unit and
4 the administrator of the special education local plan area and the
5 individual local education agencies within the special education
6 local plan area in relation to the following:

7 (I) The hiring, supervision, evaluation, and discipline of the
8 administrator of the special education local plan area and staff
9 employed by the administrative unit in support of the local plan.

10 (II) The allocation from the state of federal and state funds to
11 the special education local plan area administrative unit or to local
12 education agencies within the special education local plan area.

13 (III) The operation of special education programs.

14 (IV) Monitoring the appropriate use of federal, state, and local
15 funds allocated for special education programs.

16 (V) The preparation of program and fiscal reports required of
17 the special education local plan area by the state.

18 (iii) Include copies of joint powers agreements or contractual
19 agreements, as appropriate, for districts and counties that elect to
20 enter into those agreements pursuant to subdivision (b) or (c) of
21 Section 56195.1.

22 (E) The description of the governance and administration of
23 the plan, and the policymaking process, shall be consistent with
24 subdivision (f) of Section 56001, subdivision (a) of Section
25 56195.3, and Section 56195.9, and shall reflect a schedule of
26 regular consultations regarding policy and budget development
27 with representatives of special education and regular education
28 teachers and administrators selected by the groups they represent
29 and parent members of the community advisory committee
30 established pursuant to Article 7 (commencing with Section
31 56190) of Chapter 2.

32 (13) Comprehensive system of personnel development.

33 (14) Personnel standards, including standards for training and
34 supervision of paraprofessionals.

35 (15) Performance goals and indicators.

36 (16) Participation in state and districtwide assessments, and
37 reports relating to assessments.

38 (17) Supplementation of state, local, and other federal funds,
39 including nonsupplantation of funds.

40 (18) Maintenance of financial effort.

1 (19) Opportunities for public participation prior to adoption of
2 policies and procedures.

3 (20) Suspension and expulsion rates.

4 (b) Each local plan submitted to the superintendent under this
5 part shall also contain all the following:

6 (1) An annual budget plan that shall be adopted at a public
7 hearing held by the special education local plan area. Notice of this
8 hearing shall be posted in each school in the local plan area at least
9 15 days prior to the hearing. The annual budget plan may be
10 revised during any fiscal year according to the policymaking
11 process established pursuant to ~~subparagraph~~ *subparagraphs* (D)
12 and (E) of paragraph (12) of subdivision (a) and consistent with
13 subdivision (f) of Section 56001 and Section 56195.9. The annual
14 budget plan shall identify expected expenditures for all items
15 required by this part which shall include, but not be limited to, the
16 following:

17 (A) Funds received in accordance with Chapter 7.2
18 (commencing with Section 56836).

19 (B) Administrative costs of the plan.

20 (C) Special education services to pupils with severe disabilities
21 ~~and low incidence disabilities.~~

22 (D) *Special education services to pupils with low incidence*
23 *disabilities.*

24 (E) Special education services to pupils with nonsevere
25 disabilities.

26 ~~(F)~~

27 (F) Supplemental aids and services to meet the individual
28 needs of pupils placed in regular education classrooms and
29 environments.

30 ~~(F)~~

31 (G) Regionalized operations and services, and direct
32 instructional support by program specialists in accordance with
33 Article 6 (commencing with Section 56836.23) of Chapter 7.2.

34 ~~(G)~~

35 (H) The use of property taxes allocated to the special education
36 local plan area pursuant to Section 2572.

37 (2) An annual service plan shall be adopted at a public hearing
38 held by the special education local plan area. Notice of this hearing
39 shall be posted in each school district in the special education local
40 plan area at least 15 days prior to the hearing. The annual service

1 plan may be revised during any fiscal year according to the
2 policymaking process established pursuant to subparagraphs (D)
3 and (E) of paragraph (12) of subdivision (a) and consistent with
4 subdivision (f) of Section 56001 and with Section 56195.9. The
5 annual service plan shall include a description of services to be
6 provided by each district and county office, including the nature
7 of the services and the physical location at which the services will
8 be provided, including alternative schools, charter schools,
9 opportunity schools and classes, community day schools operated
10 by school districts, community schools operated by county offices
11 of education, and juvenile court schools, regardless of whether the
12 district or county office of education is participating in the local
13 plan. This description shall demonstrate that all individuals with
14 exceptional needs shall have access to services and instruction
15 appropriate to meet their needs as specified in their individualized
16 education programs.

17 (3) A description of programs for early childhood special
18 education from birth through five years of age.

19 (4) A description of the method by which members of the
20 public, including parents or guardians of individuals with
21 exceptional needs who are receiving services under the plan, may
22 address questions or concerns to the governing body or individual
23 identified in subparagraph (A) of paragraph (12) of subdivision
24 (a).

25 (5) A description of a dispute resolution process, including
26 mediation and final and binding arbitration to resolve disputes
27 over the distribution of funding, the responsibility for service
28 provision, and the other governance activities specified within the
29 plan.

30 (6) Verification that the plan has been reviewed by the
31 community advisory committee and that the committee had at least
32 30 days to conduct this review prior to submission of the plan to
33 the superintendent.

34 (7) A description of the process being utilized to meet the
35 requirements of Section 56303.

36 (c) A description of the process being utilized to oversee and
37 evaluate placements in nonpublic, nonsectarian schools and the
38 method of ensuring that all requirements of each pupil's
39 individualized education program are being met. The description

shall include a method for evaluating whether the pupil is making appropriate educational progress.

(d) The local plan, budget plan, and annual service plan shall be written in language that is understandable to the general public.

SEC. 50. Section 56301 of the Education Code is amended to read:

56301. (a) All individuals with disabilities residing in the state, including pupils with disabilities who are enrolled in elementary and secondary schools and private schools, including parochial schools, regardless of the severity of their disabilities, and who are in need of special education and related services, shall be identified, located, and assessed as required by paragraph (3) and clause (ii) of paragraph (10) of subsection (a) of Section 1412 of Title 20 of the United States Code. ~~Each district,~~

(b) *In accordance with Section 300.125 of Title 34 of the Code of Federal Regulations, the requirements of this section also apply to highly mobile individuals with exceptional needs, such as migrant and homeless children, and children who are suspected of being an individual with exceptional needs pursuant to Section 56026 and in need of special education, even though they are advancing from grade to grade.*

(c) ~~Each special education local plan area, or county office~~ shall establish written policies and procedures for use by its constituent local educational agencies for a continuous child-find system ~~which~~ that addresses the relationships among identification, screening, referral, assessment, planning, implementation, review, and the triennial assessment. The policies and procedures shall include, but need not be limited to, written notification of all parents of their rights under this chapter, and the procedure for initiating a referral for assessment to identify individuals with exceptional needs. Parents shall be given a copy of their rights and procedural safeguards upon initial referral for assessment, upon notice of an individualized education program meeting or reassessment, upon filing a complaint, and upon filing for a prehearing mediation conference pursuant to Section 56500.3 or a due process hearing request pursuant to Section 56502.

(d) *Child find data collected pursuant to this chapter, or collected pursuant to a regulation or an interagency agreement, are subject to the confidentiality requirements of Section 300.125*

1 *and Sections 300.560 to 300.577, inclusive, of Title 34 of the Code*
2 *of Federal Regulations.*

3 *SEC. 51.* Section 56320 of the Education Code is amended to
4 read:

5 56320. Before any action is taken with respect to the initial
6 placement of an individual with exceptional needs in special
7 education instruction, an individual assessment of the pupil's
8 educational needs shall be conducted, by qualified persons, in
9 accordance with requirements including, but not limited to, all the
10 following:

11 (a) Testing and assessment materials and procedures used for
12 the purposes of assessment and placement of individuals with
13 exceptional needs are selected and administered so as not to be
14 racially, culturally, or sexually discriminatory.

15 (b) Tests and other assessment materials meet all the following
16 requirements:

17 (1) Are provided and administered in the pupil's native
18 language, pursuant to Section 300.19 of Title 34 of the Code of
19 Federal Regulations, or other mode of communication, unless the
20 assessment plan indicates reasons why this provision and
21 administration are not clearly feasible. As used in this section, the
22 term "native language" means one of the following:

23 (A) The language primarily used by that individual, or, in the
24 case of a child, the language primarily used by the parents of the
25 child.

26 (B) In all direct contact with a child, including in the
27 assessment of the child, the language primarily used by the child
28 in his or her home or learning environment.

29 (C) For an individual who is deaf or blind, or, for an individual
30 with no written language, the mode of communication that is
31 primarily used by the individual, such as sign language, braille, or
32 oral communication.

33 (2) Have been validated for the specific purpose for which they
34 are used.

35 (3) Are administered by trained personnel in conformance with
36 the instructions provided by the producer of the tests and other
37 assessment materials, except that individually administered tests
38 of intellectual or emotional functioning shall be administered by
39 a credentialed school psychologist.

1 (c) Tests and other assessment materials include those tailored
2 to assess specific areas of educational need and not merely those
3 which are designed to provide a single general intelligence
4 quotient.

5 (d) Tests are selected and administered to best ensure that when
6 a test administered to a pupil with impaired sensory, manual, or
7 speaking skills produces test results that accurately reflect the
8 pupil's aptitude, achievement level, or any other factors the test
9 purports to measure and not the pupil's impaired sensory, manual,
10 or speaking skills unless those skills are the factors the test purports
11 to measure.

12 (e) Pursuant to subsection (f) of Section 300.532 of Title 34 of
13 the Code of Federal Regulations, no single procedure is used as the
14 sole criterion for determining whether a pupil is an individual with
15 exceptional needs and for determining an appropriate educational
16 program for the pupil.

17 (f) The pupil is assessed in all areas related to the suspected
18 disability including, if appropriate, health and development,
19 vision, including low vision, hearing, motor abilities, language
20 function, general intelligence, academic performance,
21 communicative status, self-help, orientation and mobility skills,
22 career and vocational abilities and interests, and social and
23 emotional status. A developmental history is obtained, when
24 appropriate. For pupils with residual vision, a low vision
25 assessment shall be provided in accordance with guidelines
26 established pursuant to Section 56136. In assessing each pupil
27 under this article, the assessment shall be conducted in accordance
28 with ~~subsection (h)~~ *subsections (h), (i), and (j)* of Section 300.532
29 of Title 34 of the Code of Federal Regulations.

30 (g) The assessment of a pupil, including the assessment of a
31 pupil with a suspected low incidence disability, shall be conducted
32 by persons knowledgeable of that disability. Special attention shall
33 be given to the unique educational needs, including, but not limited
34 to, skills and the need for specialized services, materials, and
35 equipment consistent with guidelines established pursuant to
36 Section 56136.

37 (h) As part of an initial assessment, if appropriate, and as part
38 of any reassessment under Part B of the Individuals with
39 Disabilities Education Act (20 U.S.C. 1400 et seq.) and this part,
40 the group that includes members of the individualized education



1 program team, and other qualified professionals, as appropriate,
2 shall follow the procedures specified in subsection (a) of Section
3 300.533 of Title 34 of the Code of Federal Regulations. The group
4 may conduct its review without a meeting.

5 ~~SEC. 47.~~

6 *SEC. 52. Section 56321 of the Education Code is amended to*
7 *read:*

8 56321. (a) ~~Whenever~~ *If* an assessment for the development or
9 revision of the individualized education program is to be
10 conducted, the parent or guardian of the pupil shall be given, in
11 writing, a proposed assessment plan within 15 days of the referral
12 for assessment not counting days between the pupil's regular
13 school sessions or terms or days of school vacation in excess of five
14 schooldays from the date of receipt of the referral, unless the
15 parent or guardian agrees, in writing, to an extension. However, in
16 any event, the assessment plan shall be developed within 10 days
17 after the commencement of the subsequent regular school year or
18 the pupil's regular school term as determined by each district's
19 school calendar for each pupil for whom a referral has been made
20 10 days or less prior to the end of the regular school year. In the
21 case of pupil school vacations, the 15-day time shall recommence
22 on the date that the pupil's regular schooldays reconvene. A copy
23 of the notice of a parent's or guardian's rights shall be attached to
24 the assessment plan. A written explanation of all the procedural
25 safeguards under the Individuals with Disabilities Education Act
26 (20 U.S.C. Sec. 1400 and following), and the rights and
27 procedures contained in Chapter 5 (commencing with Section
28 56500), shall be included in the notice of a parent's or guardian's
29 rights, including information on the procedures for requesting an
30 informal meeting, prehearing mediation conference, mediation
31 conference, or due process hearing; the timelines for completing
32 each process; whether the process is optional; and the type of
33 representative who may be invited to participate.

34 (b) The proposed assessment plan given to parents or guardians
35 shall meet all the following requirements:

36 (1) Be in language easily understood by the general public.

37 (2) Be provided in the primary language of the parent or
38 guardian or other mode of communication used by the parent or
39 guardian, unless to do so is clearly not feasible.

40 (3) Explain the types of assessments to be conducted.

1 (4) State that no individualized education program will result
2 from the assessment without the consent of the parent.

3 (c) ~~No~~ A assessment ~~shall~~ *may not* be conducted, unless the
4 written consent of the parent or guardian is obtained prior to the
5 assessment except pursuant to subdivision (e) of Section 56506.
6 The parent or guardian shall have at least 15 days from the receipt
7 of the proposed assessment plan to arrive at a decision. Assessment
8 may begin immediately upon receipt of the consent.

9 (d) Consent for initial assessment may not be construed as
10 consent for initial placement or initial provision of special
11 education and related services to an individual with exceptional
12 needs, pursuant to paragraph (2) of subsection (a) of Section
13 300.505 of Title 34 of the Code of Federal Regulations.

14 (e) *In accordance with paragraph (3) of subsection (a) of*
15 *Section 300.505 of Title 34 of the Code of Federal Regulations,*
16 *parental consent is not required before reviewing existing data as*
17 *part of an assessment or reassessment, or before administering a*
18 *test or other assessment that is administered to all children unless,*
19 *before administration of that test or assessment, consent is*
20 *required of the parents of all the children.*

21 SEC. 53. Section 56329 of the Education Code is amended to
22 read:

23 56329. As part of the assessment plan given to parents or
24 guardians pursuant to Section 56321, the parent or guardian of the
25 pupil shall be provided with a written notice that shall include all
26 of the following information:

27 (a) Upon completion of the administration of tests and other
28 assessment materials, an individualized education program team
29 meeting, including the parent or guardian and his or her
30 representatives, shall be scheduled, pursuant to Section 56341, to
31 determine whether the pupil is an individual with exceptional
32 needs as defined in Section 56026, and to discuss the assessment,
33 the educational recommendations, and the reasons for these
34 recommendations. A copy of the assessment report and the
35 documentation of determination of eligibility shall be given to the
36 parent or guardian.

37 (b) A parent or guardian has the right to obtain, at public
38 expense, an independent educational assessment of the pupil from
39 qualified specialists, as defined by regulations of the board, if the
40 parent or guardian disagrees with an assessment obtained by the

1 public education agency, in accordance with Section 300.502 of
2 Title 34 of the Code of Federal Regulations.

3 (c) The public education agency may initiate a due process
4 hearing pursuant to Chapter 5 (commencing with Section 56500)
5 to ~~show~~ *demonstrate* that its assessment is appropriate. If the final
6 decision resulting from the due process hearing is that the
7 assessment is appropriate, the parent or guardian still has the right
8 for an independent educational assessment, but not at public
9 expense.

10 If the parent or guardian obtains an independent educational
11 assessment at private expense, the results of the assessment shall
12 be considered by the public education agency with respect to the
13 provision of free, appropriate public education to the child, and
14 may be presented as evidence at a due process hearing pursuant to
15 Chapter 5 (commencing with Section 56500) regarding the child.

16 (d) *If a due process hearing officer requests an independent*
17 *educational assessment as part of a hearing pursuant to subsection*
18 *(d) of Section 300.502 of Title 34 of the Code of Federal*
19 *Regulations, the cost of the assessment shall be at public expense.*

20 SEC. 54. Section 56341.5 of the Education Code is amended
21 to read:

22 56341.5. (a) Each district, special education local plan area,
23 or county office convening a meeting of the individualized
24 education program team shall take steps to ensure that no less than
25 one of the parents or guardians of the individual with exceptional
26 needs are present at each individualized education program
27 meeting or are afforded the opportunity to participate.

28 (b) Parents or guardians shall be notified of the individualized
29 education program meeting early enough to ensure an opportunity
30 to attend.

31 (c) The individualized education program meeting shall be
32 scheduled at a mutually agreed-upon time and place. The notice of
33 the meeting under subdivision (b) shall indicate the purpose, time,
34 and location of the meeting and who shall be in attendance. Parents
35 or guardians shall also be informed in the notice of the right,
36 pursuant to clause (ii) of paragraph (1) of subsection (b) of Section
37 300.345 of Title 34 of the Code of Federal Regulations, to bring
38 other people to the meeting who have knowledge or special
39 expertise regarding the individual with exceptional needs.

(d) For an individual with exceptional needs beginning at age 14, or younger, if appropriate, the meeting notice shall also indicate that a purpose of the meeting will be the development of a statement of the transition services needs of the individual required by subdivision (a) of Section 56345.1, and indicate that the individual with exceptional needs is also invited to attend. In accordance with paragraph (3) of subsection (b) of Section 300.345 of the Code of Federal Regulations, for an individual with exceptional needs beginning at 16 years of age or younger, if appropriate, the meeting notice shall also indicate that a purpose of the meeting is the consideration of needed transition services for the individual required by subdivision (b) of Section 56345.1 and indicate that the individual with exceptional needs is invited to attend. If the pupil does not attend the individualized education program meeting, the district, special education local plan area, or county office shall take steps to ensure that the pupil's preferences and interests are considered in accordance with paragraph (2) of subsection (b) of Section 300.344 of Title 34 of the Code of Federal Regulations.

(e) The meeting notice shall also identify any other local agency in accordance with paragraph (3) of subsection (b) of Section 300.344 of Title 34 of the Code of Federal Regulations.

(f) If no parent or guardian can attend the meeting, the district, special education local plan area, or county office shall use other methods to ensure parent or guardian participation, including individual or conference telephone calls.

(g) A meeting may be conducted without a parent or guardian in attendance if the district, special education local plan area, or county office is unable to convince the parent or guardian that he or she should attend. In this event, the district, special education local plan area, or county office shall maintain a record of its attempts to arrange a mutually agreed-upon time and place, as follows:

(1) Detailed records of telephone calls made or attempted and the results of those calls.

(2) Copies of correspondence sent to the parents or guardians and any responses received.

(3) Detailed records of visits made to the home or place of employment of the parent or guardian and the results of those visits.

(h) The district, special education local plan area, or county office shall take whatever action is necessary to ensure that the parent or guardian understands the proceedings at a meeting, including arranging for an interpreter for parents or guardian with deafness or whose native language is other than English.

(i) The district, special education local plan area, or county office shall give the parent or guardian a copy of the individualized education program, at no cost to the parent or guardian.

~~SEC. 48.~~

SEC. 55. Section 56343.5 of the Education Code is amended to read:

56343.5. A meeting of an individualized education program team requested by a parent to review an individualized education program pursuant to subdivision (c) of Section 56343 shall be held within 30 days, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays, from the date of receipt of the parent's written request. If a parent makes an oral request, the school district shall notify the parent of the need for a written request and the procedure for filing a written request.

~~SEC. 49.~~

SEC. 56. Section 56344 of the Education Code is amended to read:

56344. (a) An individualized education program required as a result of an assessment of a pupil shall be developed within a total time not to exceed 50 days, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays, from the date of receipt of the parent's written consent for assessment, unless the parent agrees, in writing, to an extension. However, an individualized education program required as a result of an assessment of a pupil shall be developed within 30 days after the commencement of the subsequent regular school year as determined by each district's school calendar for each pupil for whom a referral has been made 20 days or less prior to the end of the regular school year. In the case of pupil school vacations, the 50-day time shall recommence on the date that pupil schooldays reconvene. *An individualized education program meeting for the pupil shall be conducted within 30 days of a determination that the pupil needs special education and related*

1 *services pursuant to paragraph (2) of subsection (b) of Section*
2 *300.343 of Title 34 of the Code of Federal Regulations.*

3 (b) Each district, special education local plan area, or county
4 office shall have an individualized education program in effect for
5 each individual with exceptional needs within its jurisdiction at the
6 beginning of each school year in accordance with subdivision (a)
7 and pursuant to subsections (a) and (b) of Section 300.342 of Title
8 34 of the Code of Federal Regulations.

9 *SEC. 57. Section 56345 of the Education Code is amended to*
10 *read:*

11 56345. (a) The individualized education program is a written
12 statement determined in a meeting of the individualized education
13 program team and shall include, but not be limited to, all of the
14 following:

15 (1) The present levels of the pupil's educational performance,
16 including the following:

17 (A) For a schoolage child, how the pupil's disability affects the
18 pupil's involvement and progress in the general curriculum.

19 (B) For a preschoolage child, as appropriate, how the disability
20 affects the child's participation in appropriate activities.

21 (2) The measurable annual goals, including benchmarks or
22 short-term objectives related to the following:

23 (A) Meeting the pupil's needs that result from the pupil's
24 disability to enable the pupil to be involved in and progress in the
25 general curriculum.

26 (B) Meeting each of the pupil's other educational needs that
27 result from the pupil's disability.

28 (3) The specific special educational instruction and related
29 services and supplementary aids and services to be provided to the
30 pupil, or on behalf of the pupil, and a statement of the program
31 modifications or supports for school personnel that will be
32 provided for the pupil in order to do the following:

33 (A) To advance appropriately toward attaining the annual
34 goals.

35 (B) To be involved and progress in the general curriculum in
36 accordance with subparagraph (A) of paragraph (1) and to
37 participate in extracurricular and other nonacademic activities.

38 (C) To be educated and participate with other pupils with
39 disabilities and nondisabled pupils in the activities described in
40 this section.



(4) An explanation of the extent, if any, to which the pupil will not participate with nondisabled pupils in regular classes and in the activities described in paragraph (3).

(5) The individual modifications in the administration of state or districtwide assessments of pupil achievement that are needed in order for the pupil to participate in the assessment. If the individualized education program team determines that the pupil will not participate in a particular state or districtwide assessment of pupil achievement (or part of an assessment), a statement of the following:

(A) Why that assessment is not appropriate for the pupil.

(B) How the pupil will be assessed.

(6) The projected date for the beginning of the services and modifications described in paragraph (3), and the anticipated frequency, location, and duration of those services and modifications included in the individualized education program.

(7) Appropriate objective criteria, evaluation procedures, and schedules for determining, on at least an annual basis, whether the annual goals are being achieved.

(8) Beginning at least one year before the pupil reaches the age of 18, a statement shall be included in the individualized education program that the pupil has been informed of his or her rights under this part, if any, that will transfer to the pupil upon reaching the age of 18 pursuant to Section 56041.5.

(9) A statement of how the pupil's progress toward the annual goals described in paragraph (2) will be measured.

(10) A statement of how the pupil's parents or guardians will be regularly informed, at least as often as parents or guardians are informed of their nondisabled pupil's progress in the following:

(A) The pupil's progress toward the annual goals described in paragraph (2).

(B) The extent to which that progress is sufficient to enable the pupil to achieve the goals by the end of the year.

(b) ~~When~~ *if* appropriate, the individualized education program shall also include, but not be limited to, all of the following:

(1) For pupils in grades 7 to 12, inclusive, any alternative means and modes necessary for the pupil to complete the district's prescribed course of study and to meet or exceed proficiency standards for graduation.

1 (2) For individuals whose primary language is other than
2 English, linguistically appropriate goals, objectives, programs and
3 services.

4 (3) Extended school year services when needed, as determined
5 by the individualized education program team.

6 (4) Provision for the transition into the regular class program
7 if the pupil is to be transferred from a special class or nonpublic,
8 nonsectarian school into a regular class in a public school for any
9 part of the schoolday, including the following:

10 (A) A description of activities provided to integrate the pupil
11 into the regular education program. The description shall indicate
12 the nature of each activity, and the time spent on the activity each
13 day or week.

14 (B) A description of the activities provided to support the
15 transition of pupils from the special education program into the
16 regular education program.

17 (5) For pupils with low-incidence disabilities, specialized
18 services, materials, and equipment, consistent with guidelines
19 established pursuant to Section 56136.

20 (c) It is the intent of the Legislature in requiring individualized
21 education programs that the ~~district, special education local plan~~
22 ~~area, or county office~~ *local educational agency* is responsible for
23 providing the services delineated in the individualized education
24 program. However, the Legislature recognizes that some pupils
25 may not meet or exceed the growth projected in the annual goals
26 and objectives of the pupil's individualized education program.
27 *Pursuant to paragraph (2) of subsection (a) of Section 300.350 of*
28 *Title 34 of the Code of Federal Regulations, public education*
29 *agencies shall make a good faith effort to assist each individual*
30 *with exceptional needs to achieve the goals and objectives or*
31 *benchmarks listed in the pupil's individualized education*
32 *program.*

33 (d) Consistent with Section 56000.5 and clause (iv) of
34 subparagraph (B) of paragraph (3) of subsection (d) of Section
35 1414 of Title 20 of the United States Code, it is the intent of the
36 Legislature that, in making a determination of what constitutes an
37 appropriate education to meet the unique needs of a deaf or
38 hard-of-hearing pupil in the least restrictive environment, the
39 individualized education program team shall consider the related
40 services and program options that provide the pupil with an equal

1 opportunity for communication access. The individualized
2 education program team shall specifically discuss the
3 communication needs of the pupil, consistent with the guidelines
4 adopted pursuant to Section 56136 and Page 49274 of Volume 57
5 of the Federal Register, including all of the following:

6 (1) The pupil's primary language mode and language, which
7 may include the use of spoken language with or without visual
8 cues, or the use of sign language, or a combination of both.

9 (2) The availability of a sufficient number of age, cognitive,
10 and language peers of similar abilities which may be met by
11 consolidating services into a local plan areawide program or
12 providing placement pursuant to Section 56361.

13 (3) Appropriate, direct, and ongoing language access to special
14 education teachers and other specialists who are proficient in the
15 pupil's primary language mode and language consistent with
16 existing law regarding teacher training requirements.

17 (4) Services necessary to ensure communication-accessible
18 academic instructions, school services, and extracurricular
19 activities consistent with the Vocational Rehabilitation Act of
20 1973 as set forth in Section 794 of Title 29 of the United States
21 Code and the Americans with Disabilities Act of 1990 as set forth
22 in Section ~~12000~~ 12101, and following, of Title 42 of the United
23 States Code.

24 (e) ~~No~~ General Fund money made available to school districts
25 or local agencies may *not* be used for any additional
26 responsibilities and services associated with paragraphs (1) and (2)
27 of subdivision (e), including the training of special education
28 teachers and other specialists, even if those additional
29 responsibilities or services are required pursuant to a judicial or
30 state agency determination. Those responsibilities and services
31 shall only be funded by a local educational agency as follows:

32 (1) The costs of those activities shall be funded from existing
33 programs and funding sources.

34 (2) Those activities shall be supported by the resources
35 otherwise made available to those programs.

36 (3) Those activities shall be consistent with ~~the provisions of~~
37 Sections 56240 to 56243, inclusive.

38 (f) It is the intent of the Legislature that the communication
39 skills of teachers who work with hard-of-hearing and deaf children
40 be improved; ~~however, nothing in this. This section shall be~~

1 ~~construed to~~ *does not* remove the local educational agency's
2 discretionary authority in regard to in-service activities.

3 SEC. 58. Section 56345.1 of the Education Code is amended
4 to read:

5 56345.1. (a) Beginning at age 14 or younger, if determined
6 by the individualized education program team pursuant to
7 paragraph (1) of subsection (b) of Section 300.347 of Title 34 of
8 the Code of Federal Regulations, and updated annually, a
9 statement of the transition service needs of the pupil shall be
10 included in the pupil's individualized education program. The
11 statement shall be included under applicable components of the
12 pupil's individualized education program that focuses on the
13 pupil's courses of study, such as participation in
14 advanced-placement courses or a vocational education program.

15 (b) Beginning at age 16 or younger and annually thereafter, in
16 accordance with Section 56462 and paragraph (30) of Section
17 1401 of Title 20 of the United States Code, a statement of needed
18 transition services shall be included in the pupil's individualized
19 education program, including whenever appropriate, a statement
20 of interagency responsibilities or any needed linkages.

21 (c) The term "transition services" means a coordinated set of
22 activities for an individual with exceptional needs that does the
23 following:

24 (1) Is designed within an outcome-oriented process, that
25 promotes movement from school to postschool activities,
26 including postsecondary education, vocational training, integrated
27 employment, including supported employment, continuing and
28 adult education, adult services, independent living, or community
29 participation.

30 (2) Is based upon the individual pupil's needs, taking into
31 account the pupil's preferences and interests.

32 (3) Includes instruction, related services, community
33 experiences, the development of employment and other
34 postschool adult living objectives, and, when appropriate,
35 acquisition of daily living skills and functional vocational
36 evaluation.

37 (d) If a participating agency, other than the local educational
38 agency, fails to provide the transition services described in the
39 pupil's individualized education program in accordance with this
40 section, the local educational agency shall reconvene the

1 individualized education program team to identify alternative
2 strategies to meet the transition service needs for the pupil set out
3 in the program.

4 ~~SEC. 50.~~

5 *SEC. 59. Section 56346 of the Education Code is amended to*
6 *read:*

7 56346. (a) ~~No~~ *Informed parental consent shall be obtained*
8 *before the initial provision of special education and related*
9 *services to an individual with exceptional needs pursuant to clause*
10 *(ii) of paragraph (1) of subsection (a) of Section 300.505 of Title*
11 *34 of the Code of Federal Regulations.*

12 (b) A pupil ~~shall~~ *may not* be required to participate in all or part
13 of any special education program unless the parent is first
14 informed, in writing, of the facts that make participation in the
15 program necessary or desirable, and of the contents of the
16 individualized education program, and after this notice, consents,
17 in writing, to all or part of the individualized education program.
18 If the parent does not consent to all the components of the
19 individualized education program, then those components of the
20 program to which the parent has consented shall be implemented
21 so as not to delay providing instruction and services to the pupil.

22 ~~(b)~~

23 (c) ~~If the district, special education local plan area, or county~~
24 ~~office~~ *local educational agency* determines that the part of the
25 proposed special education program to which the parent does not
26 consent is necessary to provide a free and appropriate public
27 education to the pupil, a due process hearing shall be initiated
28 pursuant to Chapter 5 (commencing with Section 56500), unless
29 a prehearing mediation conference is held. During the pendency
30 of the due process hearing, the ~~district, special education local plan~~
31 ~~area, or county office~~ *local educational agency* may reconsider the
32 proposed individualized education program, may choose to meet
33 informally with the parent pursuant to subdivision (b) of Section
34 56502, or may hold a mediation conference pursuant to Section
35 56503. As an alternative to holding a due process hearing, the
36 parties may hold a prehearing mediation conference pursuant to
37 Section 56500.3 to resolve any issue or dispute. If a due process
38 hearing is held, the hearing decision shall be the final
39 administrative determination and shall be binding upon the
40 parties. While a prehearing mediation conference or due process

1 hearing is pending, the pupil shall remain in his or her then-current
2 placement, unless the parent and the ~~district, special education~~
3 ~~local plan area, or county office~~ *local educational agency* agree
4 otherwise.

5 *SEC. 60.* Section 56361 of the Education Code is amended to
6 read:

7 56361. The continuum of program options shall include, but
8 not necessarily be limited to, all of the following or any
9 combination of the following:

10 (a) Regular education programs consistent with subparagraph
11 (A) of paragraph (5) of subsection (a) of Section 1412 of Title 20
12 of the United States Code and implementing regulations.

13 (b) A resource specialist program pursuant to Section 56362.

14 (c) Designated instruction and services pursuant to Section
15 56363.

16 (d) Special classes pursuant to Section 56364.

17 (e) Nonpublic, nonsectarian school services pursuant to
18 Section 56365.

19 (f) State special schools pursuant to Section 56367.

20 (g) Instruction in settings other than classrooms where
21 specially designed instruction may occur.

22 (h) Itinerant instruction in classrooms, resource rooms, and
23 settings other than classrooms where specially designed
24 instruction may occur to the extent required by federal law or
25 regulation.

26 (i) Instruction using telecommunication, and instruction in the
27 home, in hospitals, and in other institutions to the extent required
28 by federal law or regulation.

29 ~~*SEC. 51.*~~

30 *SEC. 61.* Section 56364 of the Education Code is repealed.

31 ~~*SEC. 52.*~~

32 *SEC. 62.* Section 56364.2 of the Education Code, is amended
33 and renumbered to read:

34 56364. (a) Special classes that serve pupils with similar and
35 more intensive educational needs shall be available. The special
36 classes may enroll pupils only when the nature or severity of the
37 disability of the individual with exceptional needs is such that
38 education in the regular classes with the use of supplementary aids
39 and services, including curriculum modification and behavioral
40 support, cannot be achieved satisfactorily. These requirements

1 also apply to separate schooling, or other removal of individuals
2 with exceptional needs from the regular educational environment.

3 (b) In providing or arranging for the provision of activities,
4 each public agency shall ensure that each individual with
5 exceptional needs participates in those activities with nondisabled
6 pupils to the maximum extent appropriate to the needs of the
7 individual with exceptional needs, including nonacademic and
8 extracurricular services and activities. Special classes shall meet
9 standards adopted by the board.

10 ~~SEC. 53.~~

11 ~~SEC. 63.~~ Section 56364.5 of the Education Code is repealed.

12 ~~SEC. 54.~~

13 ~~SEC. 64.~~ *Section 56365 of the Education Code is amended to*
14 *read:*

15 56365. (a) Nonpublic, nonsectarian school services,
16 including services by nonpublic, nonsectarian agencies shall be
17 available. These services shall be provided pursuant to Section
18 56366, *and in accordance with Section 300.401 of Title 34 of the*
19 *Code of Federal Regulations*, under contract with the district,
20 special education local plan area, or county office to provide the
21 appropriate special educational facilities, special education, or
22 designated instruction and services required by the individual with
23 exceptional needs ~~when~~ *if* no appropriate public education
24 program is available.

25 (b) Pupils enrolled in nonpublic, nonsectarian schools and
26 agencies under this section shall be deemed to be enrolled in public
27 schools for all purposes of Chapter 4 (commencing with Section
28 41600) of Part 24 and Section 42238. The district, special
29 education local plan area, or county office shall be eligible to
30 receive allowances under Chapter 7.2 (commencing with Section
31 56836) for services that are provided to individuals with
32 exceptional needs pursuant to the contract.

33 (c) If the state participates in the federal program of assistance
34 for state-operated or state-supported programs for individuals
35 with exceptional needs (P.L. 89-313, Sec. 6), pupils enrolled in
36 nonpublic, nonsectarian schools shall be deemed to be enrolled in
37 state-supported institutions for all purposes of that program and
38 shall be eligible to receive allowances under Chapter 7.2
39 (commencing with Section 56836) for supplemental services
40 provided to individuals with exceptional needs pursuant to a

1 contract with a district, special education local plan area, or county
2 office of education. In order to participate in the federal program,
3 the state must find that participation will not result in any
4 additional expenditures from the General Fund.

5 (d) The district, special education local plan area, or county
6 office shall pay to the nonpublic, nonsectarian school or agency the
7 full amount of the tuition for individuals with exceptional needs
8 that are enrolled in programs provided by the nonpublic,
9 nonsectarian school pursuant to the contract.

10 (e) Before contracting with a nonpublic, nonsectarian school or
11 agency outside of this state, the district, special education local
12 plan area, or county office shall document its efforts to utilize
13 public schools or to locate an appropriate nonpublic, nonsectarian
14 school or agency program, or both, within the state.

15 (f) If a district, special education local plan area, or county
16 office places a pupil with a nonpublic, nonsectarian school or
17 agency outside of this state, the pupil's individualized education
18 program team shall submit a report to the superintendent within 15
19 days of the placement decision. The report shall include
20 information about the special education and related services
21 provided by the out-of-state program placement and the costs of
22 the special education and related services provided, and shall
23 indicate the efforts of the local educational agency to locate an
24 appropriate public school or nonpublic, nonsectarian school or
25 agency, or a combination thereof, within the state. The
26 superintendent shall submit a report to the State Board of
27 Education on all placements made outside of this state.

28 (g) If a school district, special education local plan area, or
29 county office of education decides to place a pupil with a
30 nonpublic, nonsectarian school or agency outside of this state, that
31 local education agency shall indicate the anticipated date for the
32 return of the pupil to a public or nonpublic, nonsectarian school or
33 agency placement, or a combination thereof, located in the state
34 and shall document efforts during the previous placement year to
35 return the pupil.

36 (h) In addition to meeting the requirements of Section 56366.1,
37 a nonpublic, nonsectarian school or agency that operates a
38 program outside of this state shall be certified or licensed by that
39 state to provide, respectively, special education and related
40 services and designated instruction and related services to pupils

1 under the Individuals with Disabilities Education Act (20 U.S.C.
2 Sec. 1400 et seq.).

3 (i) A nonpublic, nonsectarian school or agency that is located
4 outside of this state is eligible for certification pursuant to Section
5 56366.1 only if a pupil is enrolled in a program operated by that
6 school or agency pursuant to the recommendation of an
7 individualized education program team in California, and if that
8 pupil's parents or guardians reside in California.

9 (j) In accordance with subsections (b) and (c) of Section
10 300.402 of Title 34 of the Code of Federal Regulations, the
11 department shall disseminate copies of applicable standards to
12 each nonpublic, nonsectarian school and nonpublic, nonsectarian
13 agency to which a district, special education local plan area, or
14 county office has referred or placed an individual with exceptional
15 needs and shall provide an opportunity for those nonpublic,
16 nonsectarian schools and nonpublic, nonsectarian agencies to
17 participate in the development and revision of state standards that
18 apply to those entities.

19 *SEC. 65.* Section 56366 of the Education Code is amended to
20 read:

21 56366. It is the intent of the Legislature that the role of the
22 nonpublic, nonsectarian school or agency shall be maintained and
23 continued as an alternative special education service available to
24 districts, special education local plan areas, county offices, and
25 parents.

26 (a) The master contract for nonpublic, nonsectarian school or
27 agency services shall be developed in accordance with the
28 following provisions:

29 (1) The master contract shall specify the general administrative
30 and financial agreements between the nonpublic, nonsectarian
31 school or agency and the district, special education local plan area,
32 or county office to provide the special education and designated
33 instruction and services, as well as transportation specified in the
34 pupil's individualized education program. The administrative
35 provisions of the contract also shall include procedures for
36 recordkeeping and documentation, and the maintenance of school
37 records by the contracting district, special education local plan
38 area, or county office to ensure that appropriate high school
39 graduation credit is received by the pupil. The contract may allow



1 for partial or full-time attendance at the nonpublic, nonsectarian
2 school.

3 (2) (A) The master contract shall include an individual
4 services agreement for each pupil placed by a district, special
5 education local plan area, or county office that will be negotiated
6 for the length of time for which nonpublic, nonsectarian school or
7 agency special education and designated instruction and services
8 are specified in the pupil's individualized education program.

9 (B) The master contract shall include a description of the
10 process being utilized by the school district, county office of
11 education, or special education local plan area to oversee and
12 evaluate placements in nonpublic, nonsectarian schools. This
13 description shall include a method for evaluating whether the pupil
14 is making appropriate educational progress.

15 (3) Changes in educational instruction, services, or placement
16 provided under contract may only be made on the basis of
17 revisions to the pupil's individualized education program.

18 At any time during the term of the contract or individual services
19 agreement, the parent; nonpublic, nonsectarian school or agency;
20 or district, special education local plan area, or county office may
21 request a review of the pupil's individualized education program
22 by the individualized education program team. Changes in the
23 administrative or financial agreements of the master contract that
24 do not alter the individual services agreement that outlines each
25 pupil's educational instruction, services, or placement may be
26 made at any time during the term of the contract as mutually agreed
27 by the nonpublic, nonsectarian school or agency and the district,
28 special education local plan area, or county office.

29 (4) The master contract or individual services agreement may
30 be terminated for cause. The cause shall not be the availability of
31 a public class initiated during the period of the contract unless the
32 parent agrees to the transfer of the pupil to a public school
33 program. To terminate the contract either party shall give 20 days'
34 notice.

35 (5) The nonpublic, nonsectarian school or agency shall provide
36 all services specified in the individualized education program,
37 unless the nonpublic, nonsectarian school or agency and the
38 district, special education local plan area, or county office agree
39 otherwise in the contract or individualized services agreement.

(6) Related services provided pursuant to a nonpublic, nonsectarian agency master contract shall only be provided during the period of the child's regular or extended school year program, or both, unless otherwise specified by the pupil's individualized education program.

(7) The nonpublic, nonsectarian school or agency shall report attendance of pupils receiving special education and designated instruction and services as defined by Section 46307 for purposes of submitting a warrant for tuition to each contracting district, special education local plan area, or county office.

(b) The master contract or individual services agreement shall not include special education transportation provided through the use of services or equipment owned, leased, or contracted by a district, special education local plan area, or county office for pupils enrolled in the nonpublic, nonsectarian school or agency unless provided directly or subcontracted by that nonpublic, nonsectarian school or agency.

The superintendent shall withhold 20 percent of the amount apportioned to a school district or county office for costs related to the provision of nonpublic, nonsectarian school or agency placements if the superintendent finds that the local education agency is in noncompliance with this subdivision. This amount shall be withheld from the apportionments in the fiscal year following the superintendent's finding of noncompliance. The superintendent shall take other appropriate actions to prevent noncompliant practices from occurring and report to the Legislature on those actions.

(c) (1) If the pupil is enrolled in the nonpublic, nonsectarian school or agency with the approval of the district, special education local plan area, or county office prior to agreement to a contract or individual services agreement, the district, special education local plan area, or county office shall issue a warrant, upon submission of an attendance report and claim, for an amount equal to the number of creditable days of attendance at the per diem tuition rate agreed upon prior to the enrollment of the pupil. This provision shall be allowed for 90 days during which time the contract shall be consummated.

(2) If after 60 days the master contract or individual services agreement has not been finalized as prescribed in paragraph (1) of subdivision (a), either party may appeal to the county

superintendent of schools, if the county superintendent is not participating in the local plan involved in the nonpublic, nonsectarian school or agency contract, or the superintendent, if the county superintendent is participating in the local plan involved in the contract, to negotiate the contract. Within 30 days of receipt of this appeal, the county superintendent or the superintendent, or his or her designee, shall render a decision, which shall be the final administrative decision and binding upon both parties.

(d) No master contract for special education and related services provided by a nonpublic, nonsectarian school or agency shall be authorized under this part unless the school or agency has been certified as meeting those standards relating to the required special education and specified related services and facilities for individuals with exceptional needs. The certification shall result in the school's or agency's receiving approval to educate pupils under this part for a period no longer than four years from the date of the approval.

(e) By September 30, 1998, the procedures, methods, and regulations for the purposes of contracting for nonpublic, nonsectarian school and agency services pursuant to this section and for reimbursement pursuant to Sections 56836.16 and 56836.20 shall be developed by the superintendent in consultation with statewide organizations representing providers of special education and designated instruction and services. The regulations shall be established by rules and regulations issued by the board.

~~SEC. 55.~~

SEC. 66. Section 56381 of the Education Code is amended to read:

56381. (a) A reassessment of the pupil, based upon procedures specified in Article 2 (commencing with Section 56320) shall be conducted at least once every three years or more frequently, if conditions warrant a reassessment, or if the pupil's parent or teacher requests a reassessment and a new individualized education program to be developed.

If the reassessment so indicates, a new individualized education program shall be developed.

(b) As part of any reassessment, the individualized education program team and other qualified professionals, as appropriate, shall do the following:

(1) Review existing assessment data on the pupil, including assessments and information provided by the parents of the pupil, as specified in clause (i) of paragraph (1) of subsection (a) of Section 300.533 of Title 34 of the Code of Federal Regulations, current classroom-based assessments and observations, and teacher and related services providers' observations.

(2) On the basis of the review conducted pursuant to paragraph (1), and input from the pupil's parents, identify what additional data, if any, is needed to determine:

(A) Whether the pupil continues to have a disability described in paragraph (3) of Section 1401 of Title 20 of the United States Code.

(B) The present levels of performance and educational needs of the pupil.

(C) Whether the pupil continues to need special education and related services.

(D) Whether any additions or modifications to the special education and related services are needed to enable the pupil to meet the measurable annual goals set out in the individualized education program of the pupil and to participate, as appropriate, in the general curriculum.

~~(c) The district, special education local plan area, or county office~~ *local educational agency* shall administer tests and other assessment materials ~~as may be~~ needed to produce the data identified by the individualized education program team.

(d) If the individualized education program team and other qualified professionals, as appropriate, determine that no additional data is needed to determine whether the pupil continues to be an individual with exceptional needs, ~~the district, special education local plan area, or county office~~ *local educational agency* shall notify the pupil's parents of that determination and the reasons for it, and the right of the parents to request an assessment to determine whether the pupil continues to be an individual with exceptional needs; ~~however, the district, special education local plan area, or county office shall.~~ *The local educational agency is not be required to conduct an assessment, unless requested by the pupil's parents.*

~~(e) A district, special education local plan area, or county office~~ *local educational agency* shall assess an individual with exceptional needs in accordance with this section and procedures

specified in Article 2 (commencing with Section 56320), as provided in paragraph (2) of subsection (c) of Section 300.534 of Title 34 of the Code of Federal Regulations.

(f) ~~No~~ A reassessment ~~shall~~ *may not* be conducted, unless the written consent of the parent is obtained prior to reassessment, except pursuant to subdivision (e) of Section 56506. *Pursuant to paragraphs (1) and (2) of subsection (c) of Section 300.505 of Title 34 of the Code of Federal Regulations, informed parental consent need not be obtained for the reassessment of an individual with exceptional needs if the local educational agency can demonstrate that it has taken reasonable measures to obtain that consent and the child's parent has failed to respond. To meet the reasonable measures requirement of this subdivision, the local educational agency shall use procedures consistent with those set forth in subsection (d) of Section 300.345 of Title 34 of the Code of Federal Regulations.*

(g) The individualized education program team and other qualified professionals referenced in subdivision (b) may conduct the review without a meeting, as provided in subsection (b) of Section 300.533 of Title 34 of the Code of Federal Regulations.

(h) *Before determining that the individual is no longer an individual with exceptional needs, a local educational agency shall assess the individual in accordance with Section 56320 and this section, as appropriate, and Sections 300.532 and 300.533 of Title 34 of the Code of Federal Regulations, pursuant to paragraph (1) of subsection (c) of Section 300.534 of Title 34 of the Code of Federal Regulations.*

SEC. 67. Section 56390 of the Education Code is amended to read:

56390. Notwithstanding Section 51412 or any other provision of law, a local educational agency shall award an individual with exceptional needs a certificate or document of educational achievement or completion if the requirements of subdivision (a), (b), or (c) are met.

(a) The individual has satisfactorily completed a prescribed alternative course of study approved by the governing board of the school district in which the individual attended school or the school district with jurisdiction over the individual and identified in his or her individualized education program.

(b) The individual has satisfactorily met his or her individualized education program goals and objectives during high school as determined by the individualized education program team.

(c) The individual has satisfactorily attended high school, participated in the instruction as prescribed in his or her individualized education program, and has met the objectives of the statement of transition services.

~~SEC. 56.~~

SEC. 68. Section 56391 of the Education Code is amended to read:

56391. A school district shall permit an individual with exceptional needs who meets the criteria for a certificate or document described in Section 56390 to participate in any graduation ceremony and any school activity related to graduation in which a pupil of similar age without disabilities would be eligible to participate. The right to participate in graduation ceremonies does not equate a certificate or document described in Section 56390 with a regular high school diploma.

~~SEC. 57.~~

SEC. 69. Section 56440.5 is added to the Education Code, to read:

56440.5. Each local educational agency shall ensure that a free appropriate public education is available to every child eligible under this part and under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), including children under three years of age not receiving early education program services pursuant to Chapter 4.4 (commencing with Section 56425), or early intervention services pursuant to Chapter 1 (commencing with Section 95000) of Title 14 of the Government Code no later than the child's third birthday and that an individualized education program is in effect by that date as required by Section 300.121 of Title 34 of the Code of Federal Regulations. If the child's birthday occurs during the summer, the child's individualized education program team shall determine the date when services under the individualized education program will begin.

SEC. 70. Section 56500.3 of the Education Code is amended to read:

56500.3. (a) It is the intent of the Legislature that parties to special education disputes be encouraged to seek resolution through mediation prior to filing a request for a due process hearing. It is also the intent of the Legislature that these voluntary prehearing request mediation conferences be an informal process conducted in a nonadversarial atmosphere to resolve issues relating to the identification, assessment, or educational placement of the child, or the provision of a free, appropriate public education to the child, to the satisfaction of both parties. Therefore, attorneys or other independent contractors used to provide legal advocacy services may not attend or otherwise participate in the prehearing request mediation conferences.

(b) This part does not preclude the parent or the public educational agency from being accompanied and advised by nonattorney representatives in the mediation conferences and consulting with an attorney prior to or following a mediation conference. For purposes of this section, “attorney” means an active, practicing member of the State Bar of California or another independent contractor used to provide legal advocacy services, but does not mean a parent of the pupil who is also an attorney.

(c) Requesting or participating in a mediation conference is not a prerequisite to requesting a due process hearing.

(d) All requests for a mediation conference shall be filed with the superintendent. The party initiating a mediation conference by filing a written request with the superintendent shall provide the other party to the mediation with a copy of the request at the same time the request is filed with the superintendent. The mediation conference shall be conducted by a person knowledgeable in the process of reconciling differences in a nonadversarial manner and under contract with the department pursuant to Section 56504.5. The mediator shall be knowledgeable in the laws and regulations governing special education. *Pursuant to paragraph (3) of subsection (b) of Section 300.506 of Title 34 of the Code of Federal Regulations, and to encourage the use of mediation, the state shall bear the cost of the mediation process, including any meetings described in subsection (d) of Section 300.506 of Title 34 of the Code of Federal Regulations. The costs of mediation shall be included in the contract described in Section 56504.5.*

(e) The prehearing mediation conference shall be scheduled within 15 days of receipt by the superintendent of the request for

1 mediation. The mediation conference shall be completed within
2 30 days after receipt of the request for mediation unless both
3 parties to the prehearing mediation conference agree to extend the
4 time for completing the mediation.

5 (f) Based upon the mediation conference, the district
6 superintendent, the county superintendent, or the director of the
7 public educational agency, or his or her designee, may resolve the
8 issue or issues. However, this resolution may not conflict with state
9 or federal law and shall be to the satisfaction of both parties. A
10 copy of the written resolution shall be mailed to each party within
11 10 days following the mediation conference.

12 (g) If the mediation conference fails to resolve the issues to the
13 satisfaction of all parties, the party who requested the mediation
14 conference has the option of filing for a state-level hearing
15 pursuant to Section 56505. The mediator may assist the parties in
16 specifying any unresolved issues to be included in the hearing
17 request.

18 (h) Any mediation conference held pursuant to this section
19 shall be scheduled in a timely manner and shall be held at a time
20 and place reasonably convenient to the parties to the dispute in
21 accordance with paragraph (4) of subsection (b) of Section
22 300.506 of Title 34 of the Code of Federal Regulations.

23 (i) The mediation conference shall be conducted in accordance
24 with regulations adopted by the board.

25 (j) Notwithstanding any procedure set forth in this chapter, a
26 public educational agency and a parent may, if the party initiating
27 the mediation conference so chooses, meet informally to resolve
28 any issue or issues to the satisfaction of both parties prior to the
29 mediation conference.

30 (k) The procedures and rights contained in this section shall be
31 included in the notice of parent rights attached to the pupil's
32 assessment plan pursuant to Section 56321.

33 ~~SEC. 58.~~

34 *SEC. 71. Section 56500.4 of the Education Code is amended*
35 *to read:*

36 56500.4. Pursuant to paragraphs (3) and (4) of subsection (b)
37 of Section 1415 of Title 20 of the United States Code, and in
38 accordance with Section 300.503 of Title 34 of the Code of Federal
39 Regulations, written prior notice shall be given by the public
40 agency to the parents or guardians of an individual with

1 exceptional needs, or to the parents or guardians of a child upon
2 initial referral for assessment, ~~as the case may be.~~

3 SEC. 72. Section 56500.6 is added to the Education Code, to
4 read:

5 56500.6. (a) In accordance with Section 300.457 of Title 34
6 of the Code of Federal Regulations, the due process procedures in
7 this part do not apply to a complaint that a local educational
8 agency has failed to meet the requirements of Article 5.6
9 (commencing with Section 56170) of Chapter 2, pertaining to
10 children enrolled in private schools by a parent, including the
11 provision of services indicated on the child's service plan.

12 (b) Due process procedures are limited to child find
13 requirements and procedures for assessment for determining
14 eligibility pursuant to subsection (b) of Section 300.457 of Title 34
15 of the Code of Federal Regulations.

16 (c) Complaints that the state or a local educational agency has
17 failed to meet the requirements of Article 5.6 (commencing with
18 Section 56170) of Chapter 2 may be filed under Chapter 5.1
19 (commencing with Section 4600) of Title 5 of the California Code
20 of Regulations.

21 SEC. 73. Section 56502 of the Education Code is amended to
22 read:

23 56502. (a) All requests for a due process hearing shall be
24 filed with the superintendent in accordance with paragraphs (1)
25 and (2) of subsection (c) of Section 300.507 of Title 34 of the Code
26 of Federal Regulations.

27 (b) The superintendent shall develop a model form to assist
28 parents and guardians in filing a request for due process that is in
29 accordance with paragraph (3) of subsection (c) of Section
30 300.507 of Title 34 of the Code of Federal Regulations.

31 (c) The party initiating a due process hearing by filing a written
32 request with the superintendent shall provide the other party to the
33 hearing with a copy of the request at the same time as the request
34 is filed with the superintendent.

35 (d) The superintendent shall take steps to ensure that within 45
36 days after receipt of the written hearing request the hearing is
37 immediately commenced and completed, including, any
38 mediation requested at any point during the hearing process
39 pursuant to paragraph (2) of subdivision (b) of Section 56501, and

1 a final administrative decision is rendered, unless a continuance
2 has been granted pursuant to Section 56505.

3 (e) Notwithstanding any procedure set forth in this chapter, a
4 public education agency and a parent or guardian may, if the party
5 initiating the hearing so chooses, meet informally to resolve any
6 issue or issues relating to the identification, assessment, or
7 education and placement of the child, or the provision of a free,
8 appropriate public education to the child, to the satisfaction of both
9 parties prior to the hearing. The informal meeting shall be
10 conducted by the district superintendent, county superintendent,
11 or director of the public education agency or his or her designee.
12 Any designee appointed pursuant to this subdivision shall have the
13 authority to resolve the issue or issues.

14 (f) Upon receipt by the superintendent of a written request by
15 the parent or guardian or public education agency, the
16 superintendent or his or her designee or designees shall
17 immediately notify, in writing, all parties of the request for the
18 hearing and the scheduled date for the hearing. The notice shall
19 advise all parties of all their rights relating to procedural
20 safeguards. The superintendent or his or her designee shall provide
21 both parties with a list of persons and organizations within the
22 geographical area that can provide free or reduced cost
23 representation or other assistance in preparing for the due process
24 hearing. This list shall include a brief description of the
25 requirement to qualify for the services. The superintendent or his
26 or her designee shall have complete discretion in determining
27 which individuals or groups shall be included on the list.

28 *SEC. 74.* Section 56504.5 of the Education Code is amended
29 to read:

30 56504.5. The department shall contract with a single,
31 nonprofit organization or entity to conduct mediation conferences
32 and due process hearings in accordance with Sections 300.506 and
33 300.508 of Title 34 of the Code of Federal Regulations.

34 ~~SEC. 59.~~

35 *SEC. 75.* Section 56505 of the Education Code is amended to
36 read:

37 56505. (a) The state hearing shall be conducted in
38 accordance with regulations adopted by the board.

39 (b) The hearing shall be held at a time and place reasonably
40 convenient to the parent or guardian and the pupil.

(c) The hearing shall be conducted by a person knowledgeable in the laws *and regulations* governing special education and administrative hearings pursuant to Section 56504.5. A *due process hearing may not be conducted by any individual listed in subsection (a) of Section 300.508 of Title 34 of the Code of Federal Regulations. Pursuant to subsection (b) of Section 300.508 of Title 34 of the Code of Federal Regulations, a person who is qualified to conduct a hearing is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer.* The hearing officer shall encourage the parties to a hearing to consider the option of mediation as an alternative to a hearing.

(d) Pursuant to subsection (a) of Section 300.514 of Title 34 of the Code of Federal Regulations, during the pendency of the hearing proceedings, including the actual state-level hearing, or judicial proceeding regarding a due process hearing, the pupil shall remain in his or her present placement, except as provided in Section 300.526 of Title 34 of the Code of Federal Regulations, unless the public agency and the parent or guardian agree otherwise. A pupil applying for initial admission to a public school shall, with the consent of his or her parent or guardian, be placed in the public school program until all proceedings have been completed. As provided in subsection (c) of Section 300.514 of Title 34 of the Code of Federal Regulations, if the decision of a hearing officer in a due process hearing or a state review official in an administrative appeal agrees with the pupil's parent or guardian that a change of placement is appropriate, that placement must be treated as an agreement between the state or local agency and the parent or guardian.

(e) Any party to the hearing held pursuant to this section shall be afforded the following rights consistent with state and federal statutes and regulations:

(1) The right to be accompanied and advised by counsel and by individuals with special knowledge or training relating to the problems of individuals with exceptional needs.

(2) The right to present evidence, written arguments, and oral arguments.

(3) The right to confront, cross-examine, and compel the attendance of witnesses.

(4) The right to a written, or, at the option of the parents or guardians, electronic verbatim record of the hearing.

1 (5) The right to written, or, at the option of the parent or
2 guardian, electronic findings of fact and decisions. The record of
3 the hearing and the findings of fact and decisions shall be provided
4 at no cost to parents or guardians in accordance with paragraph (2)
5 of subsection (c) of Section 300.509 of Title 34 of the Code of
6 Federal Regulations. The findings and decisions shall be made
7 available to the public after any personally identifiable
8 information has been deleted consistent with the confidentiality
9 requirements of subsection (c) of Section 1417 of Title 20 of the
10 United States Code and shall also be transmitted to the Advisory
11 Commission on Special Education pursuant to paragraph (4) of
12 subsection (h) of Section 1415 of Title 20 of the United States
13 Code.

14 (6) The right to be informed by the other parties to the hearing,
15 at least 10 days prior to the hearing, as to what those parties believe
16 are the issues to be decided at the hearing and their proposed
17 resolution of those issues. Upon the request of a parent who is not
18 represented by an attorney, the agency responsible for conducting
19 hearings shall provide a mediator to assist the parent in identifying
20 the issues and the proposed resolution of the issues.

21 (7) The right to receive from other parties to the hearing, at least
22 five business days prior to the hearing, a copy of all documents and
23 a list of all witnesses and their general area of testimony that the
24 parties intend to present at the hearing. Included in the material to
25 be disclosed to all parties at least five business days prior to a
26 hearing shall be all assessments completed by that date and
27 recommendations based on the assessments that the parties intend
28 to use at the hearing.

29 (8) The right, pursuant to paragraph (3) of subsection (a) of
30 Section 300.509 of Title 34 of the Code of Federal Regulations, to
31 prohibit the introduction of any evidence at the hearing that has not
32 been disclosed to that party at least five business days before the
33 hearing.

34 (f) The hearing conducted pursuant to this section shall be
35 completed and a written, reasoned decision mailed to all parties to
36 the hearing within 45 days from the receipt by the superintendent
37 of the request for a hearing. Either party to the hearing may request
38 the hearing officer to grant an extension. The extension shall be
39 granted upon a showing of good cause. Any extension shall extend



1 the time for rendering a final administrative decision for a period
2 only equal to the length of the extension.

3 (g) The hearing conducted pursuant to this section shall be the
4 final administrative determination and binding on all parties.

5 (h) In decisions relating to the placement of individuals with
6 exceptional needs, the person conducting the state hearing shall
7 consider cost, in addition to all other factors that are considered.

8 (i) Nothing in this chapter shall preclude a party aggrieved by
9 the findings and decisions in a hearing under this section from
10 exercising the right to appeal the decision to a state court of
11 competent jurisdiction. An aggrieved party may also exercise the
12 right to bring a civil action in a district court of the United States
13 without regard to the amount in controversy, pursuant to Section
14 300.512 of Title 34 of the Code of Federal Regulations. An appeal
15 shall be made within 90 days of receipt of the hearing decision.
16 During the pendency of any administrative or judicial proceeding
17 conducted pursuant to Chapter 5 (commencing with Section
18 56500), unless the public education agency and the parents of the
19 child agree otherwise, the child involved in the hearing shall
20 remain in his or her present educational placement. Any action
21 brought under this subdivision shall adhere to the provisions of
22 subsection (b) of Section 300.512 of Title 34 of the Code of
23 Federal Regulations.

24 (j) Any request for a due process hearing arising under
25 subdivision (a) of Section 56501 shall be filed within three years
26 from the date the party initiating the request knew or had reason
27 to know of the facts underlying the basis for the request.

28 ~~SEC. 60.~~

29 (k) *Pursuant to subsection (c) of Section 300.508 of Title 34 of*
30 *the Code of Federal Regulations, each public education agency*
31 *shall keep a list of the persons who serve as due process hearing*
32 *officers, in accordance with Section 56504.5 and the list shall*
33 *include a statement of the qualifications of each of those persons.*
34 *The list of hearing officers shall be provided to the public*
35 *education agencies by the organization or entity under contract*
36 *with the department to conduct due process hearings.*

37 SEC. 76. Section 56506 of the Education Code is amended to
38 read:

1 56506. In addition to the due process hearing rights
2 enumerated in subdivision (b) of 56501, the following due process
3 rights extend to the pupil and the parent:

4 (a) Written notice to the parent of his or her rights in language
5 easily understood by the general public and in the native language
6 of the parent, as defined in Section 300.19 of Title 34 of the Code
7 of Federal Regulations or other mode of communication used by
8 the parent, unless to do so is clearly not feasible. The written notice
9 of rights shall include, but not be limited to, those prescribed by
10 Section 56341.

11 (b) The right to initiate a referral of a child for special education
12 services pursuant to Section 56303.

13 (c) The right to obtain an independent educational assessment
14 pursuant to subdivision (b) of Section 56329.

15 (d) The right to participate in the development of the
16 individualized education program and to be informed of the
17 availability under state and federal law of free appropriate public
18 education and of all available alternative programs, both public
19 and nonpublic.

20 (e) Written parental consent pursuant to Section 56321 shall be
21 obtained before any assessment of the pupil is conducted unless the
22 public education agency prevails in a due process hearing relating
23 to the assessment. In accordance with subsection (c) of Section
24 300.505 of Title 34 of the Code of Federal Regulations, informed
25 parental consent need not be obtained in the case of a reassessment
26 of the pupil if the local educational agency can demonstrate that
27 it has taken reasonable measures to obtain consent and the pupil's
28 parent has failed to respond.

29 (f) Written parental consent pursuant to Section 56321 shall be
30 obtained before the pupil is placed in a special education program.

31 ~~SEC. 61.~~

32 *SEC. 77. Chapter 5.1 (commencing with Section 56515) is*
33 *added to Part 30 of the Education Code, to read:*

34
35 *CHAPTER 5.1. CONFIDENTIALITY OF INFORMALITY OF INFORMATION*
36 *ABOUT INDIVIDUALS WITH EXCEPTIONAL NEEDS*
37

38 56515. (a) *In addition to the provisions of Chapter 6.5*
39 *(commencing with Section 49060) of Part 27, the confidentiality*
40 *of personally identifiable information about individuals with*

1 *exceptional needs shall be governed and protected in accordance*
2 *with the provisions of Sections 300.560 to 300.576 of Title 34 of the*
3 *Code of Federal Regulations, including, notice to parents, access*
4 *rights, records on more than one child, lists and types of locations*
5 *of information, amendment of records at parent's request, parental*
6 *consent regarding the disclosure of personally identifiable*
7 *information, fees for copies of records, amendment of records at*
8 *parent's request, opportunity for a hearing, safeguards,*
9 *destruction of information, children's privacy rights, enforcement,*
10 *and disciplinary information about an individual with exceptional*
11 *needs.*

12 *(b) Pursuant to paragraph (3) of subsection (b) of Section*
13 *300.500 of Title 34 of the Code of Federal Regulations,*
14 *"personally identifiable," as used in this part includes the*
15 *following information:*

16 *(1) The name of the child, the child's parent, or other family*
17 *member.*

18 *(2) The address of the child.*

19 *(3) A personal identifier, such as the child's social security*
20 *account number or pupil number, or a list of personal*
21 *characteristics or other information that would make it possible to*
22 *identify the child with reasonable certainty.*

23 *SEC. 78. Section 56605 of the Education Code is amended to*
24 *read:*

25 *56605. The superintendent shall periodically provide*
26 *information or sponsor or conduct workshops and seminars, or*
27 *both, for the education of local education agency personnel*
28 *assigned to, and responsible for, the evaluation of local special*
29 *education programs.*

30 ~~*SEC. 62.*~~

31 *SEC. 79. Section 56836.01 of the Education Code is amended*
32 *to read:*

33 *56836.01. Commencing with the 1998–99 fiscal year and*
34 *each fiscal year thereafter, the administrator of each special*
35 *education local plan area, in accordance with the local plan*
36 *approved by the board, shall be responsible for the following:*

37 *(a) The fiscal administration of the annual budget plan pursuant*
38 *to paragraph (1) of subdivision (b) of Section 56205 and annual*
39 *allocation plan for multidistrict special education local plan areas*
40 *pursuant to Section 56836.05 for special education programs of*

1 school districts and county superintendents of schools composing
2 the special education local plan area.

3 (b) The allocation of state and federal funds allocated to the
4 special education local plan area for the provision of special
5 education and related services by those entities.

6 (c) The reporting and accounting requirements prescribed by
7 this part.

8 ~~SEC. 63.~~

9 *SEC. 80.* Section 56836.155 of the Education Code is
10 amended to read:

11 56836.155. (a) On or before November 2, 1998, the
12 department, in conjunction with the Office of the Legislative
13 Analyst, shall do the following:

14 (1) Calculate an “incidence multiplier” for each special
15 education local plan area using the definition, methodology, and
16 data provided in the final report submitted by the American
17 Institutes for Research pursuant to Section 67 of Chapter 854 of the
18 Statutes of 1997.

19 (2) Submit the incidence multiplier for each special education
20 local plan area and supporting data to the Department of Finance.

21 (b) The Department of Finance shall review the incidence
22 multiplier for each special education local plan area and the
23 supporting data, and report any errors to the department and the
24 Office of the Legislative Analyst for correction.

25 (c) The Department of Finance shall approve the final
26 incidence multiplier for each special education local plan area by
27 November 23, 1998.

28 (d) For the 1998–99 fiscal year and each fiscal year thereafter
29 to and including the 2002–03 fiscal year, the superintendent shall
30 perform the following calculation to determine each special
31 education local plan area’s adjusted entitlement for the incidence
32 of disabilities:

33 (1) The incidence multiplier for the special education local plan
34 area shall be multiplied by the statewide target amount per unit of
35 average daily attendance for special education local plan areas
36 determined pursuant to Section 56836.11 for the fiscal year in
37 which the computation is made.

38 (2) The amount determined pursuant to paragraph (1) shall be
39 added to the statewide target amount per unit of average daily
40 attendance for special education local plan area determined

pursuant to Section 56836.11 for the fiscal year in which the computation is made.

(3) Subtract the amount of funding for the special education local plan area determined pursuant to paragraph (1) of subdivision (a) or paragraph (1) of subdivision (b) of Section 56836.08, as appropriate for the fiscal year in which the computation is made, or the statewide target amount per unit of average daily attendance for special education local plan areas determined pursuant to Section 56836.11 for the fiscal year in which the computation is made, whichever is greater, from the amount determined pursuant to paragraph (2). For the purposes of this paragraph for the 2001–02 and 2002–03 fiscal years, the amount, if any, received pursuant to Section 56836.159 shall be excluded from the funding level per unit of average daily attendance for a special education local plan area. If the result is less than zero, the special education local plan area may not receive an adjusted entitlement for the incidence of disabilities.

(4) Multiply the amount determined in paragraph (3) by either the average daily attendance reported for the special education local plan area for the fiscal year in which the computation is made, as adjusted pursuant to subdivision (a) of Section 56836.15, or the average daily attendance reported for the special education local plan area for the prior fiscal year, as adjusted pursuant to subdivision (a) of Section 56826.15, whichever is less.

(5) If there are insufficient funds appropriated in the fiscal year for which the computation is made for the purposes of this section, the amount received by each special education local plan area shall be prorated.

(e) For the 1997–98 fiscal year, the superintendent shall perform the calculation in paragraphs (1) to (3), inclusive, of paragraph (d) only for the purposes of making the computation in paragraph (1) of subdivision (d) of Section 56836.08, but the special education local plan area shall not receive an adjusted entitlement for the incidence of disabilities pursuant to this section for the 1997–98 fiscal year.

(f) On or before March 1, 2003, the Office of the Legislative Analyst, in conjunction with the Department of Finance and the department, shall submit to the Legislature a new study of the incidence multiplier, with recommendations as to the necessity of continuing to adjust the funding formula contained in this chapter

1 for the purposes of this section to the extent that funding is
2 provided for this purpose. The Office of the Legislative Analyst
3 may contract for this study. It is the intent of the Legislature to
4 provide funding for this study in the Budget Act of 2002.

5 ~~SEC. 64.~~

6 *SEC. 81.* Section 56863 of the Education Code is amended to
7 read:

8 56863. The state hospitals, as part of the notification to
9 parents of pupils of their rights pursuant to the Individuals with
10 Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), the
11 Rehabilitation Act of 1973 (29 U.S.C. Sec. 701 et seq.), and this
12 part and implementing regulations, shall notify parents of the right
13 that their child can be considered for education programs other
14 than on state hospital grounds.

15 For the purposes of this section, the term “parent of pupil” shall
16 mean a parent, a legal guardian, a conservator, a person acting as
17 a parent of a child, or a surrogate parent appointed pursuant to
18 Section 300.515 of the Code of Federal Regulations.

19 Information and records concerning state hospital patients in the
20 possession of the Superintendent of Public Instruction shall be
21 treated as confidential under Section 5328 of the Welfare and
22 Institutions Code and the Federal Privacy Act of 1974, Public Law
23 93-579.

24 ~~SEC. 65.~~

25 *SEC. 82.* Section 60040 of the Education Code is amended to
26 read:

27 60040. When adopting instructional materials for use in the
28 schools, governing boards shall include only instructional
29 materials which, in their determination, accurately portray the
30 cultural and racial diversity of our society, including:

31 (a) The contributions of both men and women in all types of
32 roles, including professional, vocational, and executive roles.

33 (b) The role and contributions of American Indians, African
34 Americans, Mexican Americans, Asian Americans, European
35 Americans, and members of other ethnic and cultural groups to the
36 total development of California and the United States.

37 (c) The role and contributions of the entrepreneur and labor in
38 the total development of California and the United States.

39 ~~SEC. 66.~~

1 SEC. 83. Section 60119 of the Education Code is amended to
2 read:

3 60119. (a) For the 1999–2000 fiscal year and each fiscal year
4 thereafter, in order to be eligible to receive funds available for the
5 purposes of this article, the governing board of a school district
6 shall take the following actions:

7 (1) The governing board shall hold a public hearing or hearings
8 at which the governing board shall encourage participation by
9 parents, teachers, members of the community interested in the
10 affairs of the school district, and bargaining unit leaders, and shall
11 make a determination, through a resolution, as to whether each
12 pupil in each school in the district has, or will have prior to the end
13 of that fiscal year, sufficient textbooks or instructional materials,
14 or both, in each subject that are consistent with the content and
15 cycles of the curriculum framework adopted by the state board.

16 (2) (A) If the governing board determines that there are
17 insufficient textbooks or instructional materials, or both, the
18 governing board shall provide information to classroom teachers
19 and to the public setting forth the reasons that each pupil does not
20 have sufficient textbooks or instructional materials, or both, and
21 take any action, except an action that would require
22 reimbursement by the Commission on State Mandates, to ensure
23 that each pupil has sufficient textbooks or instructional materials,
24 or both, within a two-year period from the date of the
25 determination.

26 (B) In carrying out subparagraph (A), the governing board may
27 use money in any of the following funds:

28 (i) Any funds available for textbooks or instructional materials,
29 or both, from categorical programs, including any funds allocated
30 to school districts that have been appropriated in the annual Budget
31 Act.

32 (ii) Any funds of the school district that are in excess of the
33 amount available for each pupil during the prior fiscal year to
34 purchase textbooks or instructional materials, or both.

35 (iii) Any other funds available to the school district for
36 textbooks or instructional materials, or both.

37 (b) The governing board shall provide notice of the public
38 hearing or hearings set forth in subdivision (a) in a manner in
39 which it customarily provides similar notices and information to
40 the public.

(c) Except for purposes of Section 60252, governing boards of school districts that receive funds for instructional materials from any state source, are subject to the requirements of this section only in a fiscal year in which the Superintendent of Public Instruction determines that the base revenue limit for each school district will increase by at least 1 percent per unit of average daily attendance from the prior fiscal year.

(d) The governing board of a school district is eligible to receive funds available for the purposes of this article for the 1994–95 fiscal year to the 1998–99 fiscal year, inclusive, whether or not the governing board complied with the public hearing requirement set forth in paragraph (1) of subdivision (a).

~~SEC. 67.~~

SEC. 84. Section 60640 of the Education Code is amended to read:

60640. (a) There is hereby established the Standardized Testing and Reporting Program, to be known as the STAR Program.

(b) Commencing in the 1997–98 fiscal year and each fiscal year thereafter, and from the funds available for that purpose, each school district, charter school, and county office of education shall administer to each of its pupils in grades 2 to 11, inclusive, the achievement test designated by the State Board of Education pursuant to Section 60642 and the standards-based achievement test provided for in Section 60642.5. The State Board of Education shall establish a testing period to provide that all schools administer these tests to pupils at approximately the same time during the instructional year, except as necessary to ensure test security and to meet the final filing date.

(c) The publisher and the school district shall provide two makeup days for the testing of previously absent pupils within the testing period established by the State Board of Education in subdivision (b).

(d) The governing board of the school district may administer achievement tests in kindergarten and grade 1 or 12, or both, as it deems appropriate.

(e) Pursuant to paragraph (17) of subsection (a) of Section 1412 of Title 20 of the United States Code, individuals with exceptional needs, as defined in Section 56026, shall be included in the testing requirement of subdivision (b) with appropriate

1 accommodations in administration, where necessary, and those
2 individuals with exceptional needs who are unable to participate
3 in the testing, even with accommodations, will be given an
4 alternate assessment.

5 (f) At the school district's option, pupils of limited English
6 proficiency who are enrolled in any of grades 2 to 11, inclusive,
7 may take a second achievement test in their primary language.
8 Primary language tests administered pursuant to this subdivision
9 and subdivision (g) shall be subject to the requirements of
10 subdivision (a) of Section 60641. These primary language tests
11 shall produce individual pupil scores that are valid and reliable.
12 Notwithstanding any other provision of law, the State Board of
13 Education shall designate for use, as part of this program, a single
14 primary language test in each language for which a test is available
15 for grades 2 to 11, inclusive, no later than November 14, 1998,
16 pursuant to the process used for designation of the assessment
17 chosen in the 1997–98 fiscal year, as specified in Sections 60642
18 and 60643, as applicable.

19 (g) Pupils of limited English proficiency who are enrolled in
20 any of grades 2 to 11, inclusive, shall be required to take a test in
21 their primary language if a test is available, if fewer than 12 months
22 have elapsed after their initial enrollment in any public school in
23 the state.

24 (h) (1) The Superintendent of Public Instruction shall
25 apportion funds to school districts to enable school districts to
26 meet the requirements of subdivisions (b), (e), (f), and (g).

27 (2) The State Board of Education shall annually establish the
28 amount of funding to be apportioned to school districts for each
29 test administered and shall annually establish the amount that each
30 publisher shall be paid for each test administered under the
31 agreements required pursuant to Section 60643. The amounts to
32 be paid to the publishers shall be determined by considering the
33 cost estimates submitted by each publisher each September and the
34 amount included in the Budget Act and by making allowance for
35 the estimated costs to school districts for compliance with the
36 requirements of subdivisions (b), (e), (f), and (g).

37 (3) An adjustment to the amount of funding to be apportioned
38 per test may not be valid without the approval of the Director of
39 Finance. A request for approval of an adjustment to the amount of
40 funding to be apportioned per test shall be submitted in writing to

1 the Director of Finance and the chairpersons of the fiscal
2 committees of both houses of the Legislature with accompanying
3 material justifying the proposed adjustment. The Director of
4 Finance is authorized to approve only those adjustments related to
5 activities required by statute. The Director of Finance shall
6 approve or disapprove the amount within 30 days of receipt of the
7 request and shall notify the chairpersons of the fiscal committees
8 of both houses of the Legislature of the decision.

9 (i) For the purposes of making the computations required by
10 Section 8 of Article XVI of the California Constitution, the
11 appropriation for the apportionments made pursuant to paragraph
12 (1) of subdivision (h), and the payments made to the publishers
13 under the contracts required pursuant to Section 60643 or
14 subparagraph (C) of paragraph (1) of subdivision (a) of Section
15 60605 between the State Department of Education and the
16 contractor, shall be deemed to be “General Fund revenues
17 appropriated for school districts,” as defined in subdivision (c) of
18 Section 41202 of the Education Code, for the applicable fiscal
19 year, and included within the “total allocations to school districts
20 and community college districts from General Fund proceeds of
21 taxes appropriated pursuant to Article XIII B,” as defined in
22 subdivision (e) of Section 41202 of the Education Code, for that
23 fiscal year.

24 (j) As a condition to receiving an apportionment pursuant to
25 subdivision (h), a school district shall report to the superintendent
26 all of the following:

27 (1) The number of pupils enrolled in the school district in
28 grades 2 to 11, inclusive.

29 (2) The number of pupils to whom an achievement test was
30 administered in grades 2 to 11, inclusive, in the school district.

31 (3) The number of pupils in paragraph (1) who were exempted
32 from the test at the request of their parents or guardians.

33 *SEC. 85.* Section 62002 of the Education Code is repealed.

34 ~~*SEC. 68.*~~

35 *SEC. 86.* Section 62007 of the Education Code is repealed.

36 ~~*SEC. 69.*~~

37 *SEC. 87.* Section 62008 of the Education Code is repealed.

38 ~~*SEC. 70.*~~

39 *SEC. 88.* Section 19050.8 of the Government Code is
40 amended to read:

1 19050.8. The board may prescribe rules governing the
2 temporary assignment or loan of employees within an agency or
3 between agencies for not to exceed two years or between
4 jurisdictions for not to exceed four years for any of the following
5 purposes:

6 (a) To provide training to employees.

7 (b) To enable an agency to obtain expertise needed to meet a
8 compelling program or management need.

9 (c) To facilitate the return of injured employees to work.

10 These temporary assignments or loans shall be deemed to be in
11 accord with this part limiting employees to duties consistent with
12 their class and may be used to meet minimum requirements for
13 promotional as well as open examinations. An employee
14 participating in that arrangement shall have the absolute right to
15 return to his or her former position. Any temporary assignment or
16 loan of an employee made for the purpose specified in subdivision
17 (b) shall be made only with the voluntary consent of the employee.

18 In addition, out-of-class experience obtained in a manner not
19 described in this section may be used to meet minimum
20 requirements for promotional as well as open examinations, only
21 if it was obtained by the employee in good faith and was properly
22 verified under standards prescribed by board rule.

23 For purposes of this section, a temporary assignment or loan
24 between educational agencies or jurisdictions shall be extended for
25 up to two additional years upon a finding by the Superintendent of
26 Public Instruction or the Chancellor of the California Community
27 Colleges, and with the approval of the Executive Officer of the
28 State Personnel Board, that the extension is necessary in order to
29 substantially complete work on an educational improvement
30 project. However, the temporary assignment of any local educator
31 who is performing the duties of a nonrepresented classification
32 while on loan to a state education agency may be extended for as
33 many successive two year intervals as necessary by the
34 Superintendent of Public Instruction or the Chancellor of
35 Community Colleges with the concurrence of the education
36 agency or jurisdiction. Public and private colleges and universities
37 shall be considered educational agencies or jurisdictions within the
38 meaning of this section.

1 A temporary assignment within an agency or between agencies
2 may be extended by the board for up to two additional years in
3 order for an employee to complete an apprenticeship program.

4 ~~SEC. 71.~~

5 *SEC. 89. Section 54963 of the Government Code is amended*
6 *to read:*

7 54963. (a) A person may not disclose confidential
8 information that has been acquired by being present in a closed
9 session authorized by *Sections 35146, 48912, 48918, 48920, or*
10 *60617 of the Education Code, Section or Sections 3549.1,*
11 *54956.5, 54956.7, 54956.8, 54956.86, 54956.87, 54956.9,*
12 *54956.95, 54957, 54957.6, 54957.8, or 54957.10, to a person not*
13 *entitled to receive it, unless the legislative body authorizes*
14 *disclosure of that confidential information.*

15 (b) For purposes of this section, “confidential information”
16 means a communication made in a closed session that is
17 specifically related to the basis for the legislative body of a local
18 agency to meet lawfully in closed session ~~under this chapter.~~

19 (c) Violation of this section may be addressed by the use of such
20 remedies as are currently available by law, including, but not
21 limited to:

22 (1) Injunctive relief to prevent the disclosure of confidential
23 information prohibited by this section.

24 (2) Disciplinary action against an employee who has willfully
25 disclosed confidential information in violation of this section.

26 (3) Referral of a member of a legislative body who has willfully
27 disclosed confidential information in violation of this section to
28 ~~the grand jury~~ *grand jury.*

29 (d) Disciplinary action pursuant to paragraph (2) of
30 subdivision (c) shall require that the employee in question has
31 either received training as to the requirements of this section or
32 otherwise has been given notice of the requirements of this section.

33 (e) A local agency may not take any action authorized by
34 subdivision (c) against a person, nor shall it be deemed a violation
35 of this section, for doing any of the following:

36 (1) Making a confidential inquiry or complaint to a district
37 attorney or grand jury concerning a perceived violation of law,
38 including disclosing facts to a district attorney or grand jury that
39 are necessary to establish the illegality of an action taken by a
40 legislative body of a local agency or the potential illegality of an

1 action that has been the subject of deliberation at a closed session
2 if that action were to be taken by a legislative body of a local
3 agency.

4 (2) Expressing an opinion concerning the propriety or legality
5 of actions taken by a legislative body of a local agency in closed
6 session, including disclosure of the nature and extent of the illegal
7 or potentially illegal action.

8 (3) Disclosing information acquired by being present in a
9 closed session under this chapter that is not confidential
10 information.

11 (f) ~~Nothing in this~~ This section shall be construed to does not
12 prohibit disclosures under the whistleblower statutes contained in
13 Section 1102.5 of the Labor Code or Article 4.5 (commencing with
14 Section 53296) of Chapter 2 of this code.

15 SEC. 90. Section 45 of Chapter 1167 of the Statutes of 2002
16 is amended to read:

17 Sec. 45. The sum of three hundred thirteen million nine
18 hundred eight thousand dollars (\$313,908,000) is hereby
19 appropriated for purposes of the School Improvement Programs
20 by adding Item 6110-116-0001 to Section 2.00 of the Budget Act
21 of 2002, to read:

22
23 6110-116-0001—For local assistance, Department of
24 Education (Proposition 98), for transfer to Section A of
25 the State School Fund, Program 20.60.030-School Im-
26 provement Programs, pursuant to Chapter 6 (commenc-
27 ing with Section 52000) of Part 28 of the Education
28 Code 313,908,000
29 Schedule:

- 30 (1) 20.60.030.010-For the purpose
31 of making allowances for kin-
32 dergarten and grades 1 to 6, in-
33 clusive 259,727,000
34 (2) 20.60.030.020-For the purpose of
35 making allowances for grades 7 to
36 12, inclusive 54,181,000

37 Provisions:

1. From the funds appropriated in Schedule (2), the State Department of Education shall allocate \$34.67 per unit of average daily attendance (ADA) generated by pupils enrolled in grades 7 and 8 to those school districts that received School Improvement Grants in the 1989–90 fiscal year at a rate of \$30 per unit of ADA generated by pupils enrolled in grades 7 and 8. The State Department of Education shall allocate \$123.18 per unit of ADA generated by pupils enrolled in grades 7 and 8 to school districts that received School Improvement Grants in the 1989–90 fiscal year at a rate of \$106.93 per unit of ADA generated by pupils in grades 7 and 8.
2. Of the funds appropriated in Schedule (1) of this item, \$6,963,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.00 percent.
3. Of the funds appropriated in Schedule (2) of this item, \$2,303,000 is for the purpose of providing an adjustment for increases in average daily attendance at a rate of 3.27 percent. If growth funds are insufficient, the State Department of Education may adjust the per-pupil funding rates to conform to available funds. Additionally, \$1,453,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.00 percent.

~~SEC. 72.~~

SEC. 91. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs that may be incurred by a local agency or school district because provisions of this act implement a federal law or regulation and results in costs mandated by the federal government, within the meaning of Section 17556 of the Government Code.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars

1 (\$1,000,000), reimbursement shall be made from the State
2 Mandates Claims Fund.

3 ~~SEC. 73.~~

4 *SEC. 92.* This act is an urgency statute necessary for the
5 immediate preservation of the public peace, health, or safety
6 within the meaning of Article IV of the Constitution and shall go
7 into immediate effect. The facts constituting the necessity are:

8 In order to ensure that the educational programs affected by this
9 act are properly implemented, pursuant to the clarifying, technical,
10 and other changes made by this act, it is necessary that this act take
11 effect immediately.

